

Approved, SCAO

Original - Court  
1st copy - Prosecutor2nd copy - Defendant  
3rd copy - Defendant attorney

STATE OF MICHIGAN JUDICIAL CIRCUIT Van Buren COUNTY	MOTION FOR RELIEF FROM JUDGMENT	CASE NO. 09-16654
ORI MI-	Court address	Court telephone no.

THE PEOPLE OF THE STATE OF MICHIGAN

**FILED**

JUL 31 2013

TINA LEARY  
Van Buren County Clerk

Defendant's name, address, and inmate no.

Linda Kay Sterner

To be completed by the court.

CTN/TCN

SD

DOB

**INSTRUCTIONS:** Answer each question as completely as you can. If you need more space to answer any question, you may attach extra pages. You may also attach documents, affidavits, or a brief, if you wish. Only one motion for relief may be filed, except as indicated in MCR 6.502(G)(2). Information for items 1 and 2 is on your judgment of sentence and basic information sheet, which are available at the prison record office.

1. I was found guilty on January 13, 2010 of the crim(s) stated below.

Date

Count	CONVICTED BY Plea* Court Jury	DISMISSED BY*	CRIME	CHARGE CODE(S) MCL citation/PACC Code
1		X	Felony Murder	750.316B

\*For plea: insert "G" for guilty plea, "NC" for nolo contendere, or "MI" for guilty but mentally ill. For dismissal: Insert "D" for dismissed by court or "NP" for dismissed by prosecutor/plaintiff.

2. I was sentenced as stated below by Hon. Buhl

Name of Judge

Count	SENTENCE DATE	MINIMUM Years Mos. Days	MAXIMUM Years Mos. Days	DATE SENTENCE BEGINS	JAIL CREDIT Mos. Days	OTHER INFORMATION
1	Feb 8, 2010	Life		Feb 8, 2010		no parole

3. Fill in the charts below with the information requested about the court proceedings in your case and the names of the attorneys who represented you.

a. Trial Level - All Proceedings. From arrest to sentencing, including lineups and other proceedings.

NAME OF PROCEEDING	NAME OF ATTORNEY
Arrest	Getting
Arraignment	Getting
Preliminary Hearing	Getting
Motion to Quash Writ	Getting

NAME OF PROCEEDING	NAME OF ATTORNEY
Motion to Adjoin	Getting
Motion Direct Verdict	Getting
Motion New Trial	Getting
Trial	Getting


b. Postconviction - All Proceedings. State and federal, including appeals, posttrial motions, and habeas petitions.

COURT	DOCKET NO.	NAME OF PROCEEDING	NAME OF ATTORNEY	RESULT	DATE OF RESULT
Van Buren CO	unknown	Directed Verdict	Getting	denied	
Van Buren CO	unknown	Motion for New Trial	Getting	denied	March 17, 2010
Mich COA	297057	First appeal	Mary Dickens	denied	June 23, 2011
Mich Supreme	143546	Leave to appeal	none	denied	November 21, 2011

(Continued on the other side.)

AFFIDAVIT

I, Linda Kay Stermer, attest that all information presented in Motion For Relief From Judgment and Motion For Evidentiary Hearing are true and accurate to the best of my knowledge.

  
Linda K. Stermer  
MDOC No. 757152  
3201 Bemis Rd.  
Ypsilanti, Mi. 48197-9300

July 17th, 2013

Subscribed and sworn to  
before me on 07/17/2013  
by Ms. Linda K. Stermer  
Renata Fracz

RENATA FRACZ  
NOTARY PUBLIC  
OAKLAND, MICHIGAN  
MY COMMISSION EXPIRES  
ON: 05/29/2020

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF VAN BURAN

PEOPLE OF THE STATE OF MICHIGAN  
PLAINTIFF,

V

LINDA KAY STERMER

DEFENDANT

09-16654-FC

FILED

JUL 31 2013

TINA LEARY  
Van Buren County Clerk

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LINDA KAY STERMER #757152

DEFENDANT IN PROPER

3201 Benis Rd.

Ypsilanti, Mi 48197

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BRIEF IN SUPPORT OF MOTION FOR RELIEF FROM JUDGEMENT

\*\*\* ORAL ARGUMENT REQUESTED \*\*\*

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### QUESTIONS PRESENTED

I. WAS MS STERMER DENIED HER FOURTEENTH AMENDMENT RIGHT WHEN SCOTT LEROY WAS ALLOWED TO TESTIFY AS AN EXPERT ON CAUSE AND ORIGIN OF FIRE. WAS THE ACCEPTANCE OF LEROY AN ABUSE OF DISCRETION IN ACCORDANCE WITH MICHIGAN AND FEDERAL RULES OF EVIDENCE 702?

Defendant - Appellant answers "Yes".  
Plaintiff - Appellee has not yet answered.

II. WAS STERMER DENIED A FAIR TRIAL BEFORE AN IMPARTIAL JURY IN VIOLATION OF HER FOURTEENTH AMENDMENT RIGHTS BY THE PROSECUTORS ACTIONS? DID PROSECUTOR KAPS ENGAGE IN VOUCHING AND BOLSTERING, OFFER FACTS NOT IN EVIDENCE, MISCHARACTERIZE FACTS, DENIGRATE AND ASSASSINATE STERMERS CHARACTER WITH IMPROPER NAME CALLING DURING CLOSING? DID THE PROSECUTOR ELICIT KNOWN FALSE TESTIMONY AND TESTIMONIAL EVIDENCE NOT SUPPORTED BY ACTUAL EVIDENCE? WERE THESE ACTIONS PREJUDICIAL TO STERMER?

Defendant - Appellant answers "Yes".  
Plaintiff - Appellee has not yet answered.

III. DID TRIAL COUNSEL RENDER INEFFECTIVE ASSISTANCE OF COUNSEL IN VIOLATION OF STERMER'S SIXTH AMENDMENT CONSTITUTIONAL RIGHT IN HIS FAILURE TO: OBJECT TO PROSECUTORIAL MISCONDUCT, PROPERLY CHALLENGE THE ACCEPTANCE OF PROFFERED EXPERT, SCOTT LEROY, INVESTIGATE THE STATES SCIENTIFIC DETERMINATION OF ARSON, BE AWARE OF RULES CRITICAL TO THE CASE, HIRE EXPERT AS REQUESTED, INTERVIEW POTENTIAL ALIBI WITNESSES AS REQUESTED, INTERVIEW STATES WITNESSES OR EXPERTS AND OBJECT TO TRIAL COURTS FAILURE TO READ A REQUESTED CURRATIVE INSTRUCTION TO THE JURY? DID TRIAL COUNSELS ACTIONS

PREJUDICE STERMER?

Defendant - Appellant answers "Yes".  
Plaintiff - Appellee has not yet answered.

IV. DID APPELLATE COUNSEL FAIL TO RAISE STRONGER ISSUES THEN THOSE RAISED?  
WAS APPELLATE COUNSELS PERFORMANCE DEFICIENT AND VIOLATE STERNERS DUE  
PROCESS RIGHTS OF THE SIXTH AMENDMENT?

Defendant - Appellant answers "Yes".  
Plaintiff - Appellee has not yet answered.

V. SHOULD MS. STERMERS CONVICTION BE REVERSED BECAUSE THE EVIDENCE WAS  
LEGALLY INSUFFICIENT TO PROVE BEYOND A REASONABLE DOUBT THAT STERMER INTEN-  
TIONALLY SET FIRE THAT RESULTED IN THE FELONY MURDER CHARGE, AND CONTRARY  
TO THE GREAT WEIGHT OF EVIDENCE?

Defendant - Appellant answers "Yes".  
Plaintiff - Appellee has not yet answered

STATEMENT OF FACTS AND PROCEEDINGS

Procedural Background

Linda Kay Stermer was convicted on January 13, 2010 of felony murder, MCL 750 316B, for the murder of her husband Todd Stermer, following a six day trial. Ms Stermer is currently serving a life sentence without the possibility of parole at the Huron Valley Womens Complex in Ypsilanti, Michigan. She was sentenced on February 8, 2010 in the Circuit Court of Van Buren County Michigan before Judge Buhl.

Her conviction and sentence were confirmed by the Michigan Court of Appeals on June 23, 2011, (NO297057). Michigan Supreme Court denied leave to appeal on November 21, 2011 (NO143546). On September 11, 2012 Petitioner filed her Habeas petition pro se and Judge Tarnow granted an order holding the petition in a beyance and stay the proceedings on December 10, 2012, in order for Stermer to return to the state courts to exhaust additional claims, (NO2:12-cv-14013-AJT-DRG)

All of Stermer's issues raised in the current motion for relief from judgement are newly discovered and have not been raised in any previous motion or appeal. Her current deadline is July 25, 2013 on her current extension. Represented by Jeffrey Getting, trial and pretrial, Mary Owens on appeal.

FACTS

On January 7, 2007, the Van Buren County Sheriff's department responded to a house fire in Lawrence Township at 3:30 p.m. (TrII,2-3). The house was located about 250 yards from the road, down a long driveway which sloped downwards at the back of the house. (TrII,4,11,28,56). Then continued to the back of the house, a sort of pathway that had been repeatedly driven over, so that the grass had

been worn away. (Tr,68-69;TrIII,98). The back area was described as "real sandy" and unpaved, (TrII,215-216,220-221,256;TrV,8-9,20). The house itself was still under construction although the Stermers were living there (TrI,267;TrIV,109-110,148;TrV,9,78). For example, the ceilings in the living room and basement were unfinished and the rafters were exposed. (TrVIV,110;TrV,78). It was not uncommon for gas cans to be placed in the front yard (TrV,9,76-77).

It took the officer about 10 minutes to arrive at the home, by which time the house was fully involved, and the smoke was traveling upwards, but did not obscure the scene. (TrII,3-4,12).

When the police arrived there were 5 people on the north side of the lot, and Todd Stermer was laying on the grass, badly burned with lacerations, but still alive. (TrII,12-13,24-25,37,79-80,155;TrIII,43-44) There were articles of clothing placed on Todd (including clothing belonging to neighbor), but the only clothing he was wearing was a gray pair of sweat pants pulled down to his ankles and socks. (TrII,14,35-36,51,61,79;TrIII,45-46,90-91 183).

The sweat pants later tested positive for the presence of gasoline, as did Todd's socks, underwear and shirt. (TrII,139-140,142). The tan coat, a red sweatshirt, brown shirt, blue shirt and towel that had been laid on top of Todd were negative for the presence of "ignitable liquids." A shirt belonging to neighbor Mike Matueny tested positive. (TrIII,140-142). The clothing worn by Defendant-her sweater, pants and socks-tested negative for the presence of "ignitable liquids " (TrIII,141,148). The witness on the scene described Defendant as laying on top of Todd, screaming his name over and over, hysterical. (TrII,22,28-29,37-38,63,81,111-112,120). Todd

was bleeding from his head, had a laceration, and trauma to his back. Officer Eveans and the others put Todd onto a sled and pulled the sled away from the house and the oil tank and began first aid. (TrII,16-17,19,30-32,52-53,117).

Neighbor Mike Matheny and Connie Calhoun were leaving to go bowling about 3:30 p.m. As they passed the Stermer house they noticed smoke and went up the driveway to see if help was needed. (TrII,43-44,55,71-72). Defendant got out of the van and was "hysterical." (TrII,49,59-61,87-88). Matheny and Calhoun kept asking where the boys and Todd were, and when he went back towards the van, he saw Todd lying on the ground close to the fuel tank. He passed by several times before he saw Todd on the ground. (TrII,49-50,57-58,65,77-78). Matheny then got some clothes from his own car and put them over Todd. (TrII,51-52,64). Later, Defendant told Calhoun that she was downstairs doing laundry and Todd was upstairs watching TV when she heard him scream. (TrII,82-83,90-93).

Dr. Moussali and his sons were doing chores outside and noticed smoke. They drove down the driveway, where he saw Methenys and Defendant standing, and one person on the ground. (TrII,99-100). Dr. Moussali checked his breathing and tried to get a pulse. Todd did not seem to be conscious. He noticed Todd's tongue was bruised, but did not notice any lacerations or bleeding. (TrII,101-104). Defendant was "wailing" and crying. (TrII,106)

Fire Chief Leach stated that he lived on the same street as the Stermers and was the first emergency responder there that day. He saw a lot of heavy black smoke, indicative of a fast moving fire that had been burning a long time. (TrII,110-111,116,122) When Leach performed

a medical assessment, Todd was breathing and had a pulse, but there was a lot of blood in his mouth (TrII,113,117). CPR was performed for about 30 minutes. (TrII,156-157).

Defendant and Todd had been married for 14 years. (TrI,266). They had been living at their home with their three sons. (TrI,267-268).

Defendant told Deputy Gruss that she was downstairs doing laundry and that she heard yelling, went upstairs and saw the flames, so she left through the front door. She did not know how Todd managed to escape, so she got in the van to try to get him help. She saw him again, he had begun removing his clothes. (TrII,147-148,158-160).

A forensic chemist, Craig Balliet, testified. \*TrII,164-ff). He had been sent materials by fire investigator James Shinsky, including carpet pad from the Stermer home, to test for the presence of ignitable liquid residue. (TrII,167-170,235-236,238-239,258). He found turpentine residue, which would not necessarily indicate deliberate ignition, but could be the result of "natural contamination" from the burning of wood products such as fireplace log. (TrII,173,184).

Defendant was interviewed both on the scene, and two days later. (TrIV,28,71,74). She told Detective Gabrielle Rought that Todd had gotten up around 10:00 a.m. and was not feeling well. She said she made breakfast and argued with Todd about having used a debit card. (TrIV,32-33,76-77) Because she did not want the children to hear any arguing, she sent them to the mall. (TrIV,34,102-104,111-112) She said there was no more arguing after the boys left. She did not mention that there was any discussion of divorce or moving out of the house. Then, Todd began watching hunting shows while she went into the bedroom to read literature for her son's medication. (TrIV,36,77). A

fire was going in the fireplace in the living room. She fell asleep but woke up when Todd asked her for some juice. She got him the juice then went to do laundry downstairs. (TrIV,36-37). Next, she heard Todd scream and she ran upstairs where she saw a lot of smoke and fire. She fled the house and was about to go to Mike Matheny's house for help. (TrIV,38-39). Todd made no threats of suicide or killing her. (TrIV,69) She got in the van and tried to turn around. She saw Todd in the side yard on fire. She tried to turn the van around, got out of the van to try to assist him, then got back in the van, then she didn't see Todd. She got back out of the van and saw him laying in the yard with the neighbors there. (TrIV,39-39,78-80,93-94). She told Rought that the house was heated with fuel oil, there was no kerosene, but a couple of oil lamps. (TrIV,41-42,77-78).

On January 9 and 10, she was interviewed by James Shinsky, a private fire investigator who had been hired to determine the cause and origin of the fire (TrII,194-ff). Exhibit 13, the transcript of the interview, was admitted into evidence by stipulation and portions of it were read to the jury by the witness. (TrII,202-205) She was also examined under oath by the insurance company on February 27, 2007. The transcripts of that interview, exhibits 58 and 59, were also admitted into evidence by stipulation. (TrIV,44-45).

The three boys had gotten up that day and been told by Defendant to go to the mall in Kalamazoo to avoid hearing their parents argue. (TrIV,102-107,122,144-145). Todd and Defendant had been arguing the night before and the boys had figured out that their parents would be separating (TrIV,102-103,112,129-130,146-147,157). According to Cory, Todd accused Defendant of "cheating on him" and wanted a divorce. Cory

did not hear any discussion about who would be moving out of the house (TrIV,147-148,157)..

Todd was lying on the couch in living room when they left. Both Cory and Trenton said Defendant gave them money for the movies and sent them to the mall after they got up. Todd had recently obtained a prescription for an ear infection. The medication made him feel "sleepy" and affected his balance. (TrI,275-277;TrIV,132,158-159).. There was no breakfast cooking when the boys left (TrIV,152). The boys were in a movie when they were called on a report that their house was on fire. (TrIV,107,127,152).

Fire Marshal Scott Leroy seized Todd's gray sweat pants on the day of the fire. (TrIII,182-184). He noticed that there was a "noticeable odor" of accelerants coming from the sweat pants. (Id.). The next day he returned and concluded his investigation (TrIII,185). He began by comparing the area of most damage to the area of least damage, on the theory that "longer fire burns, the more damage it's going to create and the...longer it burns, is where the fire starts.." (TrIII,186,216). He determined that the fire originated towards the west side of the home, where a portion of the second story had collapsed in. (TrIII,189). There was less damage on the east side of the home (the front) and the north (where the driveway was). (TrIII,189-190,214-215). Not much fire came out of the back (west) side basement of the home. Leroy stood in the basement slider doors and was able to look up at the sky; the upper level, including the roof, was totally burned away (TrII,191).

He determined that the fire did not start in the area of the fireplace, because there was still some intact structural lumber



around the fireplace (TrIII,192). He determined that the fire began in the center of the living room (TrIII,193-194,197,216). "The area consumed the most is the living room, the floor and the roof of the main floor living room because there was also no roof deck, rafters, joists or shingles that remained. (TrIII,216). He concluded that it was an intentionally set arson fire on the basis of the speed and intensity of the fire. (TrIII,197-199,208).

He could not ascertain the presence of accelerants on the first floor because the "floor does not' exist anymore. It's totally burned up." (TrIII,197). But, because Todd was "part of the fire deris" and there were petroleum products on him, he knew "that there is in this case gasoline in the area of origin." (TrIII,198,205). A canine search conducted the next day did not find any ignitable accelerants (except for a small amount of fuel oil at the furnace). He concluded that Todd was in the middle of an intense fire for a short period of time. (TrIII,200-201,204-205). On cross-examination, Leroy admitted that it is the vapors (not the liquid gasoline) which ignite, and that is gasoline gets on one's hands or clothes, the vapors emanating from those areas may ignite. (TrIII,225).

An autopsy on Todd revealed burn injuries on most of his body, as well as blunt force injuries and lacerations on his head and upper back area, several rib fractures (both front and rear) shallow depressed skull fractures and linear abrasions consistent with being run over by a car. (TrIII,6-7,12-13,23-24,28-30). Additionally, there was soil and plant material in his nasal cavities. (TrIII,26). The socks and underwear he had been wearing at the time of his death were taken with him to Dr Markey's in the body bag (TrIII,25). However,

the sweat pants did not go to Dr. Markey's. (TrIII,75)

The cause of death was "thermal injuries" (burns) and smoke inhalation, although the amount of soot in his airways was not large. (TrIII,13,20-22,32-33). The lacerations and blunt force injuries did not contribute to his death. (TrIII,14). Because the lacerations were in four different parts of the scalp, Dr. Markey opined that his head hit something, such as having been struck in the head multiple times, hitting the ground, a table or a vehicle, but indicative of more than one impact. (TrIII,14-15). Dr. Markey could not say whether the lacerations occurred before or after death. (TrIII,16-18). Blood and urine specimens taken from Todd showed no controlled substances or prescription drugs in his blood, but Vicodin was found in his urine (Id.,31-32). The significance of finding drugs in his urine but not his blood is that it means that 1) he took the medication hours or days earlier or 2) the amount taken was so small as to be undetectable. (Id.,34). Dr. Markey concluded that the manner of death was classified as "undetermined" rather than homicide. (TrIII,33).

Cynthia DeLoach worked as a store clerk at the Lawrence Marathon. On January 7, 2007, she saw Defendant pumping gas at about 9:03 a.m., but could not see if she was pumping it into a container. (TrIV,4-5,7-12,22-23,24). Because the register receipt was for \$11.01, Cynthia agreed that Defendant also must have purchased gas for the truck. (TrIV,23). She also bought bread and eggs. (TrIV,14-15). It was not uncommon for the Sterners to purchase gas in gas cans for their equipment at home. (TrIV,16,113,159).

Fox's credibility was seriously questioned because of her animosity against Defendant. First Fox and Defendant had a falling out

on July 31, 2007, At which time she assaulted Stermer and was charged.. Second, Defendant had changed her work shift without consulting with Fox, contrary to an earlier agreement that the two of them had that they would only change shifts together, so as to continue car-pooling (TrIV,184-187,188-189,195-197,200-201). Finally, Fox herself had been admitted twice to psychiatric hospitals and was being treated for depression

At the beginning of Day five of trial, the prosecution rested and the defence made a motion for directed verdict, which was denied. (TrV,2-5). The defense then presented its witnesses.

Cassandra Grigg, Tonya Stevens, Julie McCray, Christine Sillars, Sheri Macomber, Stephen Benny and Ashley Gibson had known Defendant for many years. They described Defendant as a peaceful, honest and nonviolent person incapable of intentionally killing her husband. (TrV, 10-11,16-17,21-22,26-27,49-50,64-65,72-73,95). Ashley Gibson was Defendant's daughter. She testified that the second cell phone and the post office box were not kept a secret from Todd (TrV,81,88-89,91,93)

Several jail inmates housed with Defendant, testified that Defendant never talked about her case, never spoke with Dardeda Gordon, and that Dardeda Gordon was not a truthful person (TrV,32-35,47,55,68-69).

## ARGUMENT

I. MS STERMER WAS DENIED HER FOURTEENTH AMENDMENT RIGHT TO A FAIR TRIAL WHEN THE COURT ALLOWED SCOTT LEROY TO TESTIFY AS AN EXPERT ON CAUSE AND ORIGIN. THE COURT DID NOT FULFILL IT'S ROLE AS "GATE KEEPER" WHEN LEROY WAS ALLOWED TO PRESENT UNRELIABLE TESTIMONY TO THE JURY AS AN EXPERT, WHICH DID NOT COMPORT WITH MRE/FRE 702. THE ALLOWANCE OF LEROYS TESTIMONY WAS AN ABUSE OF DISCRETION AND PREJUDICIAL TO STERMER UNDER MRE/FRE 403.

Stermer was denied her Sixth Amendment Right to effective assistance of counsel when trial and appellate counsel failed to object to/raise, on appeal, this issue Where it did not comport with MRE/FRE 702 and MRE/FRE 403

## STANDARD OF REVIEW

The admissibility of expert testimony has been determined in *Cook v. American Steamship Co.*, 533 F.3d 733, 738 (6th 1995). The Sixth Circuit Court set forth the standard of review to be used when examining a trial court's ruling on the admissibility of expert testimony under Fed R Evid 702. Preliminary fact finding under Fed R Evid 104(a), eg., a finding that the witness is qualified to testify as an expert on a certain subject is reviewed for clear error, *Id.* Reviewing *de novo* the trial court's determination "whether the opinion the expert wishes to offer is properly the subject of 'scientific, technical, or other specialized knowledge'" and this includes it's "determination whether 'the reasoning for methodology underlying the testimony is scientifically valid.'" *Id.* (quoting *Daubert* 509 US at 592-93; 113 S Ct 2796)

In *Cook*, the Sixth Circuit court also observed that the trial court's assessment of whether an expert opinion will assist the jury in understanding the evidence or in determining a fact issue is a relevancy determination that is reviewed for an abuse of discretion. *Cook* at 738.

Evaluative responsibility is placed on the trial judge. The judge is the "gate keeper " As gate keeper he must keep unreliable expert testimony from each jury Michigan and Federal Rule of Evidence 702 To be considered reliable, scientific testimony must be grounded in the scientific method and must constitute more than subjective belief or unsupported speculation. (Daubert v. Merrell Dow Pharmaceuticals Inc. 609 US 579; 113 S Ct 7286; 125 L Ed 2d 469 (1993), Kumho Tire Co Ltd V Charmingale 526 US 137; 1195 Ct 1167; 143 L Ed 2d 238 (1999).

Among factors bearing on reliability are; whether the theory can be tested, the theory has been subject to peer review and publication, the known or potential rate of error; and general acceptance in the field. MRE/FRE 702.

The testimony of Michigan State Police Fire Investigator, Scott Leroy, did not meet this criteria Leroy's testimony, consisting of opinion only should not have been allowed.

MRE/FRE 702 states in Part:

... "A witness qualified as an expert by knowledge, skill, experience, training or education may testify thereto in the form of an opinion or otherwise if (1) the testimony is based on sufficient facts or data; (2) the testimony is the product of reliable principles and methods; and (3) the witness has applied the principles and methods reliably to the facts of the case.

Prosecutor Kaps offered Leroy as an expert in the field of determining cause and origin. Leroy offered his training and background experience, at which point trial attorney Getting acquiesced to Leroy as an expert. (T-III p 170-181) At this point no offering or request of methods or principles which were employed in Leroy's conclusions were made.

"Once the proposed expert has crossed the foundational threshold of establishing his personal background qualification as an expert, he must

then provide further foundational testimony as to the validity and reliability of his theories. *Berry v. Crown Equipment Corp.*, 108F Supp 2d 743 (ED Mich 2000)

Leroy's theory, (T-III p 186)

"A. To determine cause and origin, I would obviously inspect the entire structure and basic term, especially with this structure, what I was examining is looking-comparing most damage verses least damage and specifically of fire damage. The theory behind that is the longer fire burns, the more damage it's going to create and the more-longer a fire burns is where the fire starts."

The NFPA 921 and 1033, National Fire Protection Association, Fire Investigator principles on practice handbook lays out the standard requirements for the investigation of a fire.

Chapter 4 "Wrap up" review states, "The area of the most damage may not indicate the point of origin" and Chapter 3 "Rapid fire, growth in itself is not a reliable indicator of an incendiary fire."

Leroy's theory and reasoning are in complete contrast to not only the NFPA 921 1033 they also do not comport with MRE/FRE 702.

Because of the complete lack of accepted methods and reliable principles, Leroy's testimony has prejudiced Stermer.

MICHIGAN AND FEDERAL RULE OF EVIDENCE 403 Although relevant, evidence may be excluded if it's probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues or misleading the jury...

According, Stermer asserts that the testimony of Leroy should not have been presented to the jury. That the court abused it's discretion in allowing Leroy's testimony. That the court further abused it's discretion when it denied Stermer's two motions for Direct Verdict. Without Leroy's testimony there is no evidence of arson, the conviction therefore is against the weight of the evidence.

Smelser v. Norfolk Southern RY Co 105 F3d 299 (6th 1997) "the trial court erred when it allowed Smelser's expert Ronald Huston to offer his opinion...The court did not assess the reliability of the methodology...The court further erred when it denied Norfolk's motion for a directed verdict, because without Dr. Huston's improper testimony, there is not a scintilla of evidence that..."

Jurors assume that judge review scientific evidence before it is presented to them, and that any evidence used in a trial must be above some threshold of quality. Because of these assumptions jurors seem to be less critical of scientific evidence used in trials and are more persuaded by it.

"a certain patina attaches to an experts testimony unlike any other witness; this is science, a professionals judgement, the jury may think, and give more credence to the testimony than it may deserve." US v. Hebshie 754 F Supp 2d 89, 113 (D Mass 2010)

Cited in Nelson v. American Sterilizer (on Remand) 223 Mich App 485, 489-482 "But that is not to say that the trial court's hands were inexorably tied, or that it must have accepted, uncritically, any sort of opinion espoused by either parties proffered experts merely because their credentials rendered them qualified to testify. To the contrary, under the rules of evidence, the trial; court was charged with ensuring that any and all scientific testimony to be admitted was not only relevant by also reliable.

Amorello v. Monsanto Corp. 86 Mich App 324, 331-332; 463 NW 2d 487 (1990)

"We concluded that MRE 702 requires a trial court to determine the evidentiary reliability to trust-worthiness of the facts and data underlying an experts testimony before that testimony may be admitted. To determined whether the requisite standard of reliability has been met, the court must determine whether the proposed testimony is derived from "recognized scientific knowledge..."

## ARGUMENT

### II. THE PROSECUTOR PREJUDICED MS STERMER AND COMMITTED REVERSIBLE ERROR WHEN HE ENGAGED IN IMPROPER CONDUCT:

- a. vouching for and bolstering the credibility of testimony of seven states' witnesses during closing arguments;
- b. offered facts not in evidence, he knew to be false and improperly mischaracterized facts during closing arguments;
- c. denigrated Stermer and appealed to the passions and emotions of the jury with repeated, impermissible name calling and character assassination of Stermer during closing;
- d. elicited known false testimony from state's witness Cory Pierce;
- e. elicited testimonial evidence from detective which were not supported by actual evidence itself;

The prosecutorial misconduct committed by Kaps denied Stermer her Fourteenth Amendment due process right to a fair trial before an impartial jury.

Stermer was denied her Sixth Amendment right to effective assistance of trial counsel. Trial counsel failed to object to any of the enumerated acts of prosecutorial misconduct.

Stermer was denied her Sixth Amendment right to effective appellate counsel on appeal. Appellate counsel advised Stermer that the issues of prosecutor misconduct and other issues were too weak to present on appeal.

### STANDARD OF REVIEW

Questions involving prosecutorial misconduct are decided case by case, and the court must evaluate each question within the context of the particular facts of the case. *People v. Burnett*, 166 Mich App 741, 754;



421 NW2d (1988)

"The propriety of a prosecutor's remarks depend on all the facts of the case, and the remarks must be read as a whole. Also, the prosecutor's remarks must be evaluated in light of the relationship or lack of relationship they bear to the evidence admitted in trial. People v. Simon, 174 Mich App 649, 655; 436 NW2d 659 (1988)

The American Bar Association Standards provide respecting the prosecution function:

(a) The prosecutor may argue all reasonable inferences from evidence in the record. It is unprofessional conduct for the prosecutor intentionally to misstate the evidence or mislead the jury as to inferences that may be drawn.

(b) It is unprofessional conduct for the prosecutor to express his or her personal belief or opinions as to the truth or falsity of any testimony or evidence or the guilt of the defendant.

(c) The prosecutor should not use arguments calculated to inflame the passions or prejudices of the jury.

(d) The prosecutor should refrain from argument which would divert the jury from its duty to decide the case on the evidence.

(e) It is the responsibility of the court to ensure that final arguments to the jury is kept within proper, accepted bounds.

**KNOWN PERJURY LEFT UNCORRECTED  
BY THE PROSECUTOR, AND ATTORNEY'S**

The Standard of Review de novo, *Lamberti v. US* 22 F Supp 2d 60 (1998). "Whether the introduction of perjured testimony requires a new trial depends on the materiality of perjury to the jury's verdict and the extent to which the prosecution was aware of the perjury at the time of trial." *US v. Wallach* 935 F 2d 445, 456 (1991)" Of the defendant demonstrates that the prosecutor knew or should have known of the perjury, then the court will set aside the conviction" "if there is any reasonable likelihood that false testimony could have affected the judgment of the jury" *Id* quoting *US v. Agurs*, 427 US 97, 965 S Ct 2392 (1976) *US v Helmsley* 985 F2d 1202 (1993)

A. VOUCHING FOR AND BOLSTERING THE CREDIBILITY AND TESTIMONY OF SEVEN STATE'S WITNESSES DURING CLOSING ARGUMENTS.

"It is patently improper for a prosecutor either to comment on the credibility of a witness..." *Hodge v. Hurley* 426 F 3d 368 (6th 2005)

"You had the opportunity to see Cindy DeLoach. You had an opportunity to judge her credibility. I would submit she certainly appears to be a very credible person who has recall of the incident, has no reason to make anything up." (T-V p113)

"They were in here, you had a chance to judge their credibility. They were in here telling the truth." (T-V p121) regarding Mike Mathany and Connie Calhoun.

"Same thing with Dareda Gordon. She's got no incentive to lie, neither one of them do...There is absolutely nothing in it for them to make this up." (T-V p126) Gordon Veronia Tracy.

"We brought in Mr. Williams, who I'm sure possibly wasn't real thrilled to come in here and tell us about what his relationship was and certainly he's not going to come in and lie about that. So that was pretty much a non issue." (T-V p169)

And lastly, "The fire itself, there's no question but that it was an arson. Okay ...I mean there is no doubt that this was an arson fire, okay, and I don't think that there is any serious argument about that." (T-V p170-171)

Prosecutor Kaps has made the point, to the jury, that he wants them to believe. Not for one or two, but for seven different witnesses.

"The prosecutor's opinion carries with it that imprimatur of the governments and may induce that jury to trust the government's judgement rather than it's own view of the evidence." *United States v. Francis* 170 F 3d 546 (6th 1999) citing *United States v. Young* 470 US 1 at 18-19; 105 SCT 1038; 84 L Ed 2d 1 (1985)

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"It is well settled that a prosecutor may not vouch for the credibility of his witness by suggesting that he has some special knowledge of the witness' truthfulness" People v. Bahoda 448 Mich 261, 276; 531 NW 2d 659 (1995)

In the upholding opinion in People v. Gary Clinton Ownes, November 2, 2010, Court of Appeals no. 288074, the prosecutor injects that prestige of her office into the case. It was held that, "The prosecutor essentially stated that 'MP' was telling the truth... all believed 'MP's' account of the incident." (Those who interviewed her.) These arguments were improper and highly prejudicial in this case that involved a pure credibility."

"We have also noted that even the use of the words "I want to suggest" would not be sufficient to prevent a statement from constituting improper comment on the Witness credibility when the statement is coupled with a statement that the witness in question is basically telling the truth...because she had no reason to lie." United States v. Carroll 26 F 3d, 1387-89 (6th 1994)

In the present case of Stermer it was largely a credibility contest with mostly circumstantial evidence. Prosecutor Kaps did not vouch for just one or two witnesses inadvertently. His vouching, unobstructed by objection, continued on to include seven of the states witnesses. His carefully placed comments on credibility, "he's not going to come in and lie", "They were in here telling the truth", and "she's got no incentive to lie". All Statements were made just before deliberations, leading to maximal impact upon results and retention.

Judge Tarnow is highly respected for his long years of experience and fairness, including more than twenty years as a Federal Court Judge serving the Eastern District of Michigan. In Schauer v. McKee 662 F Supp

2d 864 (ED Mich 2009) Judge Tarnow reversed base solely on improper prosecutorial vouching of one witness, there are seven in the instant case. An attorney may not state 'the prosecutions witnesses are telling the truth' or 'I believe they are telling the truth', see US v. Krebs 78 F2d 1166, 1176-77 (6th 1986) US v. Carroll 26 F 3d 1380, 1387, 1389 (6th 1994)

In Stermer's case, as in Schauer, trial counsel failed to object, an error that allowed the prejudicial value to be multiplied over and over. Trial counsel for Stermer did however request that the court read to the jury, CJI 2d 3.5, "evidence".

Trial court judge Buhl stated however, "I guess I missed your request for it. I think however, my preliminary instructions cover at least 90% of it so I'm no inclined to bring them (jury) back in and regive it...". The requested and missed instructions included the same language which Tarnow determined could not "cure the prejudicial nature of these remarks." In Stermer's case, absent the requested instruction, trial court felt his "90 percent" was enough in dealing with 100 percent of Stermer's liberty.

The precedent set by Judge Tarnow should be honored in this state court due to the fact that Stermer has been assigned to Judge Tarnow on her Habeas petition. Stermer's Habeas is being held in "Stay and Abeyance" while these issues are pursued.

In Schauer, Judge Tarnow concluded "that the state courts' decision regarding the specified ineffective assistance of counsel claim and proisecutorial claim in this case were contrary to, or an unreasonable application of, clearly established Supreme Court precedent, and finds that Petitioner has established that he is presently in custody in violation of the Constitution or laws of the United States."

"Generally, improper vouching involves either blunt comments or

comments that imply that the prosecutor has special knowledge of the facts not in front of the jury or of the credibility the truthfulness of witnesses and their testimony " Johnson v. Bell 525 F 3d 466, 482 (6th 2008) quoting United States v. Francis 170 F3d 546, 550 (6th 1999)

B. OFFERED FACTS NOT IN EVIDENCE, HE KNEW TO BE FALSE, AND MISCHARACTERIZED FACTS, DURING CLOSING ARGUMENTS..

"Misrepresenting facts in evidence can amount to substantial error because doing so may profoundly impress a jury and may have a significant impact on the jury's deliberations", Donnelly v. DeChristofors 416 US 637, 646; 94 SCT 1868; 40 L Ed 2d 431 (1974)

For similar reasons, asserting facts that were never admitted into evidence may mislead a jury in a prejudicial way. Berger v. United States 295 US 78, 84; 55 SCT 629; 79 L Ed 1314 (1935). This is particularly true when a prosecutor misrepresents evidence because a jury generally has confidence that a prosecuting attorney is faithfully observing his obligation as a representative of a sovereignty. Id at 88.

"...but isn't it ironic and coincidental that there is a gas can right out front where the van was, right where the vehicles were?"  
Prosecutor Kaps closing (T-V p107) The inference made is contrary to all testimony given on the subject.

Cory Pierce (T-IV p159), State's witness:

Q. And it wasn't uncommon for an empty gas can to be kept there by the front porch area so it could be put in the vehicle and taken to the gas station, is that right?

A. Yes

Trevor Stermer (T-V p113) State's witness"

Q. Sometimes when gas cans were empty and they needed to be filled, rather than leaving them out back in the shed they were left by the front porch where they would be picked up, put in a vehicle, taken to the station...right?

A. Yes.

"Consequently, improper suggestions, insinuations, and especially assertions of personal knowledge are apt to carry much weight against the accused when they should properly carry none" Hodge v. Hurley 426 F3d 368, 377.

During a deposition under oath, Stermer answered that "the phones were in the house" (Feb 27, 2007 p149) "Where is your cell phone now? In the rubble." (October 18, 2007 p263 line 15), yet Kaps tells the jury (T-V p119) "The phones were in the van according to her." This completely false statement from Kaps may have been the single most prejudicial comment made. "The phones were in the van according to her," any reasonable person would question why she would not have made the potentially life saving call. Inexcusable if it were true. Kaps knew his comments were improper, trial counsel failed to object and Stermer was prejudiced beyond repair.

Yet again (T-V p169-170) Kaps; "One of the other things I want to clear up right away, Mr. Getting keeps making reference to two previous fires, two previous fires, the second which Linda Stermer is living with him and even by her own version it's not an arson, nor was the first one ...But there is no evidence that it was arson, so it's nonsense."

Both properties owned and controlled by victim, Todd Stermer, were arson. Exhibit B (Police Report) Regardless of Ms Stermer's unawareness at the time of her deposition, the prosecutor had the police report clearly labeling both fires arson. Prosecutor Kaps infers Getting is misrepresenting a fact, again, placing it before the jury at closing.

"This court has made it clear that deliberate deception of a court and jurors by the presentation of known false evidence is incompatible with the rudimentary demands of justice." Mooney v. Halohan 249 US 103, 112; 55 SCT 340. 342; 79 LEd 79 (1935)  
Pyle v Kansas 317 US 213; 635 SCT 177; 87 LEd 214 (1942)

In Hodge at 380, the prosecutor combined comment on witness credibility with misrepresentation of the evidence. Unlike Darden v. Wainwright 477 US 168, 181-82; 106 SCT 2464; 91 LEd 2d 144 (1986)

..."despite the prosecutor's other severe misconduct the prosecutor's argument did not manipulate or misstate the evidence"...

Kaps clearly committed several types of misconduct, including the misstatements and manipulation of the evidence.

C. DENIGRATED THE DEFENDANT AND APPEALED TO THE PASSING AND EMOTIONS OF THE JURY WITH REPEATED, IMPERMISSIBLE NAME CALLING AND CHARACTER ASSASSINATION OF STERMER DURING CLOSING.

"It is patently improper for a prosecutor to comment on the credibility of a witness or to express personal belief that a particular witness is lying. Hodge at 378

In Stermer's case the prosecutor both vouched for his witnesses and stated that Stermer was lying; "What I want to caution you as we look at this, we know she is a liar. There is no question but that she is a liar and will lie when it suits her, okay." Kaps (T-V p109)

(T-V p129) "I would suggest that we are dealing with a diabolical, scheming, manipulative liar and murderer."

More than a dozen times in the twenty pages from 109 to 129, the prosecutor has illustrated a picture for the jurors which will be the last they have before deliberations.

The prosecutor's continuous persistent berating of Stermer's character can be prejudicial with a jury by over persuading them to prejudge.

Washington v. Hoffbauer 228 F3d 689 (6th 200) " A fundamental rule of evidence is that a defendants "bad character" cannot be used to argue that the defendant committed the crime for which he is being tried, or had the propensity to commit that crime." Fed R Evid 404 (a)" (Evidence of a person's character or a trait of character is not admissible for the purpose of proving action in conformity therewith on a particular occasion...)" Mich R Evid 404 (a)

D. ELICITING KNOWN FALSE TESTIMONY FROM STATE'S WITNESS CORY PIERCE.

"If the state has contrived a conviction through the pretence of a trial which in truth is but used as a means of depriving a defendant of liberty through a deliberate deception of court and jury by the presentation of testimony known to be perjured. Such a contrivance by a state to procure a conviction and imprisonment of a defendant is as inconsistent with the rudimentary demands of justice as it is to the obtaining of a like result by intimidation. Mooney at 112.

Pierce (T-IV p151) when asked if there was a reason he didn't speak to Todd Stermer, the day of the loss, before he left.

A. She told us when she came down to the basement for us to sneak out of the house. (T-IV p150) Going upstairs to exit.

A. I just--I really didn't see him. I just saw his leg really.

However, in Pierce's deposition, October 18, 2007, two years before trial, only months after the loss (Deposition p30-31);

Q. And so where was your dad sitting when he was watching T.V?

A. Upstairs in the living room in a chair.

Q. Did he have like his chair he always sat in?

A. Pretty much.

Q. And that's the chair he was in?

A. Yeah.

Q. Was he awake? Was he sleeping?

A. He was awake.

Q. Did you say "see ya later dad"?

A. No, I just went?

Q. Why is that?

A. I don't know.

Q. Were you avoiding him? Or was it typical for you to just walk out without saying good bye?

A. It was typical...



During a police interview on November 2, 2007, Cory Pierce told that interviewer that Stermer had two cell phones...if he could not reach her on her 'regular' phone he would contact her on her 'work' phone.

Exhibit Q attached. More than two years later, at trial, )TOIV p154-56) Pierce testified; "Yeah she had another cell phone that um nobody knew about."

Ashley Gibson, sister of Pierce (T-V p81)

Q. Do you know whether or not Todd was aware that there was more than one cell phone?

A. Yes.

Q. He did?

A. Yes.

Q. Was this second phone secret from Todd?

A. No.

Q. Do you know why she had it?

A. Um, they both were driving trailers, hauling campers...both her and Todd used it when they were gone.

Q. But you know that there was a second phone and that both Todd and Linda were aware of it?

A. Yes.

Kaps should have been aware of the interview and deposition under oath. Forth of which were opposite of the testimony, deliberately deceived the court and jurors, and never corrected it or referenced the earlier statements. Allowing deception of the jury. Prejudice results when lies cloaked as truth prevent the trier from fail assessment.

E. ELICITED TESTIMONIAL EVIDENCE FROM DETECTIVE ROUGHT WHICH COULD NOT BE SUPPORTED WITH DOCUMENTS DUE TO DESTRUCTION OF EVIDENCE.

The duty of disclosures required in Brady v. Maryland 373 US 83; sct 1194; 10 LEd 2d (1963) operates as a duty to preserve prior to a request for discovery.

Detective Rought testified regarding Rought's interview with Stermer.

Q Did you record the statement you're talking about?

A. No sir.

Q. Did you write it down?

A Yes sir.

Q. You wrote the statement out?

A. I did write notes. I did not write word for word the statement,  
I wrote notes.

Q. Do you still have the notes?

A. No sir.

Q. Did you destroy the notes?

A. Yes. After I prepared my report I don't typically keep any notes  
to the report.

In People v. Wallace 102 Mich App 386-387 (1980), The court held: the  
police officers notes were clearly material evidence. It may be presumed  
that those unavailable notes would have been beneficial to the accused  
since they may have been of assistance to the defence counsel in his  
cross examination of the police officer.

Detective Rought's testimony is largely regarding her only interview  
with Stermer, taken January 7, 2007. Rought's answers range from "I can-  
not recall" and "I believe" to some affirmative answers. Prosecutor  
Kaps uses the interview with Rought to further solidify his portrayal  
of Stermer to the jury. (T-V p115) "The other thing that are somewhat  
inconsistent when she was asked by deputy Rought shortly after the fire,  
tell me everything you did that day, just tell me everything, okay She  
doesn't mention anything about going to the Marathon Station."

"Where bad faith by the prosecutor is shown to relative to preserve  
evidence favorable to an accused, a; prosecutorial evidence upon the  
unavailable evidence should be suppressed at prosecutorial evidence is  
not suppressed at trial." Wallace Id 386-87.

" If it were revealed that the government was merely negligent in handling the documents, then relief would be granted if the evidence might have been produced a different verdict, if there was negligence on the part of the prosecution plus deliberate misuse of statements to the court and to the defendant then the defendant's showing of prejudice would be less than in the case of negligence alone but more in the case of deliberate suppression, 34 ALR 3d 16.

Detective Macyausk is Rought's boss, testimony makes it clear what the handling of evidence procedures were in the Stermer case. (T-III p104-105)

Q Did you receive the lab report from Michigan State Police Forensic Science Division on October 22, 2009? Is that true?

A. I believe so.

Q. It that because you hadn't requested the report from the Michigan State Police in the two years that it had been completed?

A. Um, actually what was it---and, again, I'm not certain, but I think I may have requested an additional copy because I could not locate the copy that I had from them possibly initially and requested another copy from them.

Q. So you might have lost it?

~~A. I could not locate it at the time.~~

(T-III p108-109)

Q. Now the video tapes that you seized on February 1, 2007, were placed into evidence June 11--June 11, 2009. What did you do with them after you viewed them on February 2nd?

A. They were in my possession in my office with other items and reports from the investigation...It wasn't until that date listed as putting into evidence that I finally packaged them up and put them down in the evidence room

Q. So those items that you seized and took into custody on February 1, 2007 were not secured in the evidence room for over two and a half years?

A. That's correct.

Destruction of notes, losing a report, evidence left unsecured for two and a half years. The preservation fell below what is mandated in Brady, by their own admission

#### PREJUDICE

The state's case against Stermer was not particularly strong. In it's entirety it consisted of the testimony of state's expert, Leroy, as the only 'proof' of arson, and of circumstantial evidence. The prosecutor's closing argument focused heavily on a credibility contest, suggesting that several of the states witnesses were credible, telling that truth and had no reason to make anything up. While also interspersing that Stermer was a liar, diabolical, scheming, manipulative, murderer and an actress. There was no physical evidence of a crime.

The prosecutor misstated facts, that Stermer had phones with her, while no statements can support even an inference of that nature. Kaps elicited false testimony. Most of these incidents may have been harmless by themselves, not even warranting defense to call attention to them by objecting. Yet the combination of all incidents together dug a pit for Stermer while trial attorney Getting set back, during closing and failed to defend Stermer.

#### CUMULATIVE ERROR

"The cumulative effect of a number of errors may amount to errors requiring reversal, People v. Cooper, 236 Mich App 643, 659-60; 601 NW 2d 409 (1999) as cited in People v. LeBlanc 465 Mich 575, 591 (2002)

"It is true that the cumulative effect of several errors can constitute sufficient prejudice to warrant reversal where the prejudice of any one error would not. People v. Bahoda, 448 Mich 261, 292 n64; 531 NW 2d 659 (1995)."

### ARGUMENT

III. DEFENSE COUNSELS PERFORMANCE WAS CONSTITUTIONALLY DEFICIENT UNDER THE SIXTH AMENDMENT AND CONST 1963, art 1, S 20, AND PRECLUDED HER FROM MOUNTING A SUBSTANTIVE AND EFFECTIVE DEFENSE. THIS IS VIOLATION OF GUARANTEED DUE PROCESS RIGHTS UNDER THE FOURTEENTH AMENDMENT, AND CONST 1963, art 1 s 20 WHERE COUNSEL FAILED: TO CHALLENGE THE SUBMISSION OF SCOTT LEROYS TESTIMONY AS AN EXPERT, FAILED TO CHALLENGE THE THEORY OF ARSON ON A SCIENTIFIC LEVEL, TO INVESTIGATE AND PREPARE, TO CONSULT WITH AN EXPERT TO REBUT PROSECUTIONS ARSON EXPERT, TO INTERVIEW ANY STATES WITNESSES OR EXPERTS, TO QUESTION POTENTIAL WITNESSES AND TO OBJECT TO IMPROPER CONDUCT BY THE PROSECUTOR, AND FAILURE TO BE AWARE OF RULES CRITICAL TO THE CASE.

### STANDARD OF REVIEW

Whether a person has been denied effective assistance of counsel is a mixed question of fact and constitutional law. A judge must first find the facts, and then must decide whether those facts constitute a violation of the defendants constitutional right to effective assistance of counsel.

A trial court findings of fact are reviewed for clear error. MCR 2.613 (C), 6.001 (D); cf MCR 7.211 (A)(3)(a). See generally, Grievance Administration v. Lopatin, 462 Mich 235, 247, n 12; 612 NW2d 120 (2000); In re Trejo Menors, 462 Mich 341, 356-57; 612 NW2d 407 (2000); McDougal v. McDougal, 451 Mich 80, 87; 545 NW2d 357 (1996); Sparks v. Sparks, 440 Mich 141, 151-52; 485 NW2d 893 (1992)

Questions of Constitutional law are reviewed by this court de novo. Folksdorf v. Griffith, 464 Mich 1, 5; 626 NW2d 163 (2001) People v.

Denbar, 463 Mich 606, 615; 625 NW2d 1 (2001); Blank v. Dept of Corrections, 462 Mich 103; 112; 611 NW2d 530 (2000)

There was no direct evidence of arson in this case. The testimony of Scott Leroy Michigan State Police Fire Investigator did not comport with MRE/FRE 702 or MRE/FRE 403 (See issue I) Leroy's theory and investigation also did not comport with the guiding authority on fire investigations, NFPA 921 and 1033. Arson/fire investigation is a science and the outmoded manner and theory which Leroy presented to the jury was entirely subjective and unreliable.

The same mistakes were noted in Babick v. Berghuis 620 F3d 571 (6th 2010). Circuit Judge Merritt in his dissenting opinion was well aware of the "egregious mistakes" of the presentation of junk science.

"The evidence of arson is based on expert testimony inconsistent with the clear standards set out in the bible of arson forensic science, the NFPA (National Fire Protection Association) 921 Guide for Fire and Explosion Investigations."

Chapter 22 of the NFPA s 22.2.2.3. offers a strongly worded warning to investigators.

"Investigators may form an opinion that the speed of fire growth or the extent of damage was greater than would be expected for "normal" fuels... However, these opinions are subjective...What an investigator may consider as "excessive", "unnatural" or "abnormal" can actually occur in an accidental fire... The investigator is strongly cautioned against using subjective opinions to support an incendiary cause determination in the absence of physical evidence." Babick at 581-82

Further, in Babick, citing the NFPA "wood and gasoline burn at essentially the same flame temperatures as high as two thousand degrees fahrenheit.

"See David Grann, trial by fire, The New Yorker (Sept 7, 2009) quoting Dr. Hurst, an acknowledged arson expert, who explains that many arson trials reach the wrong conclusions because so-called "experts" frequently give mistaken testimony" Id at 582

"His counsel could certainly have done more work to try to understand the faulty nature of the states evidence" Babick 583.

Stermer and her family repeatedly asked Getting to hire an expert to refute Leroy's testimony. Stermer obtained copies of the building permits to show proof that the house was not complete. Getting failed to utilize the evidence where it would have proven an alternative reason for the speed of fire.

Getting had a copy of Leroy's report and heard him testify at Stermer's preliminary hearing. Yet Getting did nothing to prepare for or prevent his testimony. Clearly showing a lack of familiarity with Rule 702.

"Finding counsel ineffective for doing nothing to determine if arson evidence was impeachable; accord *Dugas v. Coplan* 428 F3d 317 (1st 2005) finding counsel ineffective for failing to consult an arson expert or edict himself concerning the use of accelerants in arson cases." *Richey v. Bradshaw* 498 F3d 344 (6th 2007) Babick 583

This court has repeatedly found prejudice resulting from trial counsel failing to investigate or present favorable witnesses" see *Bigelow v. Haviland* 576 F3d 284, 291-92 (6th 2009) *Romonez v. Berghuis* 490 F3d 482, 491 (6th 2007)

Had Getting investigated expert testimony between the preliminary hearing and trial, six months, he could have prevented Leroy's testimony on a Daubert motion or impeached it or presented an expert or science to refute the testimony of Leroy. Gettings refusal to hire an expert when requested and where Stermer could have afforded one, was negligent. Where the expert presented invalid testimony in accordance with Rule 702 there is little left. No proof of an arson and should therefore be determined as accidental. The fact that as in Babick 585

"In summary, there cannot be homicide by arson in this case without plausible expert evidence of the use of a liquid accelerant. There is none at all."

Leroy detected, with the assistance of a canine (T III ~~205-1~~) no accelerant in the house but for an oil leak at the furnace. The gasoline on Todd Stermer's clothing, a neighbor, Matheny, covered him with work clothes from the back of his vehicle. Matheny worked at a salvage yard. (Prelim T p17)

The neighbor, Matheny covered Todd Stermer. Matheny's shirt had the presence of gasoline as well. The shirt was removed when the victim was moved. The sweat pants that tested positive were largely undamaged. The socks and underwear, undamaged as well. Which would stand to reason if gas was transferred from the neighbors shirt, on that rainy day, as it covered Todd Stermer.

Getting elicited testimony from Rought that Stermer was never given the opportunity to view the notes, to check them for accuracy. (T Prelim p 128)

"If the formal police report submitted to defence counsel was not materially different from the original rough notes, there would be no violation of the Brady Standard US v. Lane 479 F2d 1134 (CA6, 1973), US v. McCallie 554 F2d 770, 773 (CA6, 1977) The record, however does not disclose how comprehensive and inclusive the report is or to the expert to which the two documents correspond. As a result, the fact that a police report was filed does not eliminate the Brady due process issue." Wallace 102 Mich App 386 (1980)

Getting made no attempt to suppress Rought's testimony where it would pertain to the content of the destroyed notes. Which allowed a subsequent reference to Stermer, in closing, by Kaps. (TV p115) "The other thing that are somewhat inconsistent, when she was asked by Deputy Rought, shortly after the fire, tell me everything you did that day, just tell me everything, okay? She doesn't mention anything about going to the Marathon Station."

The deliberate destruction of original notes prevented Getting from an effective cross examination of Rought pertaining to her original



interview of Stermer.

"Because the unavailability of the notes herein possibly inhibited defense counsel's ability to cross examine the interrogating officer, such evidence will be viewed as beneficial to defendant." Wallace at 391 citing People v. Anderson 42 Mich App 10; 201 NW 2d 299 (1972)

"...because there has been no explanation of the failure of the prosecution to preserve the officers notes..., Brady requires a remand to determine what efforts police and prosecution made in initially preserving the evidence. Should prosecutorial bad faith be shown to be present prior to a defendants discovery request, reversal of defendants conviction is appropriate. People v. Albert 89 Mich App 350; 280 NW 2d 523 (1979) quoting People v. Amison to Mich App 70; 245 NW 2d 405 (1976).

Negligence- noun, Law. the failure to exercise the degree of care that in the circumstances, the law requires for the protection of other persons or those interests of other persons that may be injuriously affected by the want of such care. RANDOM HOUSE DICTIONARY OF THE ENGLISH LANGUAGE 2nd EDITION.

This failure, by Getting should be construed as a lack of familiarity with a rule/law that was critical to Stermer's attack on the testimony of Rought.

"police notes are clearly material and may be presumed that the unavailable notes" would have been beneficial to the accused since they may have been of assistance to defense counsel in his cross examination of the police officer"

"...all prosecutorial evidence touching on the unavailable evidence should be supported at trial and reversal on appeal is mandated where such prosecutorial evidence is not suppressed at trial." Wallace at 386.

Getting was aware that Detective Rought destroyed her notes to the only interview by police, of Stermer. (Prelim T p67-68) Six months prior to Stermer's trial and the destruction of the notes were never mentioned at trial. Getting questioned Rought about several things contained in her interview. Getting never moved to prevent Rought's testimony regarding those destroyed notes. Destruction of police notes and testimony touching on the destroyed notes should have not occurred.

Getting acquiesced to this testimony when he should have claimed a Brady/Giglio violation.

Stermer's case was replete with prosecutorial misconduct )Issue II)  
The misconduct was not isolated to the closing alone, nor was it of only one type. All of the misconduct went unobjected to. Kaps vouched for seven states witnesses in his closing. Kaps called Stermer a liar more than a dozen times in closing.

"a failure to object to comments on witness credibility or derogatory statements by the prosecutor is much less susceptible to the argument it should be considered reasonable trial strategy." Hodge 386

Kaps referred to Stermer as a "diabolical, scheming, manipulative liar and murderer" as well as an "actress", a "pretty good actress."

"With the exception of certain of the bad character arguments, these statements are harmful to the Hodge's case precisely because they are false, unsupported or misleading. ...We are unable to articulate a sound professional reason why defense counsel did not object to this pattern of repeated misconduct and accordingly. We must conclude that counsel's failure to object was outside the wide range of professionally competent assistance, from Hodge quoting Strickland at 690.

Kaps elicited false testimony from Pierce. (Issue II D) It is reasonable to expect that Kaps should have known the truth. Getting possessed extrinsic evidence to prove the false testimony. Police interview and deposition of Pierce in which Getting attended with Pierce.

"It is of no consequence that the falsehood bore upon the witnesses credibility rather than directly upon defendants guilt. A lie is a lie, no matter what its subject and if its in any way relevant to the case... for its impact is the same, preventing as it did, a trial that in any real sense be termed fair " Napue v. People of the State of Illinois 79SCt 1173, 1177 (1959)

The People v Lester 232 Mich App 262 (1988) "The trial court determined that defendant was not prejudiced by the alleged false testimony because pursuant to MRE608 (b), defendant could not have contradicted the

testimony with extrinsic evidence. We conclude that the trial court erred. A prosecutor has a duty to correct his witness' false testimony without regard to whether evidence to rebut the witness would be admissible for impeachment under MRE 608 (b)."

Kaps misrepresented facts in evidence as well as introduce facts into evidence that were false. Getting again possessed the evidence, by way of police reports and depositions to refute these

Kaps assertion that two previous fires "but there is no evidence that it was arson..." Police reports clearly liable but as arson. Kaps should, reasonably, have been expected to be aware of these reports. Yet he still felt free to present this falsehood to the jury for their consideration

Strickland v. Washington 466 US 668, 690; 104 S.Ct 2052; 80 LEd 2d 674 (1984) "The performance prong is satisfied if the representation at issue falls outside the wide range of professionally competent assistance...

"We believe that the trial counsels failure to object to any of the numerous improper statements in the prosecutors closing arguments is well outside this range. Hodge 367

Prejudice results from the allowance of all the improper references falsehoods, vouching and name calling that were allowed, undeterred and unobjected to, to be considered, as they were, from a prosecutor who is charged with fairness and integrity.

Much like in Hodge, Stermer's case was largely a credibility determination. Had Getting objected to some of the comments it may have detoured the repeated pattern.

"The Supreme Court has made it clear that prejudice is readily shown in such cases, and the conviction must be set aside unless there is no reasonable likelihood that the false testimony could have

affected the judgement of the jury US v. Argurs 427US 97, 103; 96 SCt 2392; 49 LEd 2d 342 (1976) Giglio v. US 405 US 150, 154; 92 SCt 763; 31 LEd 2d 104 (1972)

"Not to draw attention to [a] statement may be perfectly sound from a tactical stand point. United States v. Carver 470 F3d 222 244 (6th 2006) To breach the unreasonableness threshold 'defense counsel must so consistently fail to use objections, despite numerous and clear reasons for doing so, that counsels failure cannot reasonably have been said to have been part of a trial strategy or tactical choice" Lundgren v Mitchell 440 F3d 754, 774-75 (6th 2006)

There is a reasonable likelihood that absent the many enumerated foul blows struck by the prosecutor that the jury could have reached a different conclusion. Prosecution prejudiced Stermer in many ways, it is impossible to say that Stermer received a fair trial.

The lack of advocacy from defence attorney Getting throughout the closing of Kaps and at many points during testimony should not be excused as tactical. Unawareness of rules that are critical to a case is a foundational and fundamental error, that for Stermer was debilitating.

ARGUMENT IV

APPELLANT COUNSEL RAISED WEAK ISSUES ON APPEAL WHILE IGNORING STRONGER MORE MERITORIOUS ARGUMENTS. COUNSELS DEFICIENT PERFORMANCE PREJUDICED STERMER AND VIOLATED HER SIXTH AMENDMENT DUE PROCESS RIGHTS.

The Due Process clause of the Fourteenth Amendment guarantees a criminal defendant the effective assistance of counsel on his first appeal as of right... A first appeal of right therefore is not adjudicated in accord with the due process of law if the appellant does not have the effective assistance of an attorney. *Evitts v. Lucey* 469 US 387, 396; 105 S Ct 830, 831 L Ed 2d 821 (1985)

In order to establish a violation of the Sixth Amendment it must be shown that appellate counsels performance was 1) deficient and 2) prejudicial. *Strickland v. Washington* 466 US 668, 687. 104 S Ct 2052, 2064; 80 L Ed 2d 674 (1984) *Ratliff v. US* 999 F2d 1023, 1026 (6th 1993)

"Once shown to be exhausted the ineffective assistance of appellate counsel could be properly utilized as cause for the default of the sufficiency of the evidence claim, and the court was then required to continue the cause and prejudice analysis by determining whether ineffective assistance of appellate counsel rose to the level of a constitutional violation, there by satisfying the cause element for excusal of state procedural default." *Carpenter v. Mohr* 163 F3d 938 (6th 1998)

Stermer discussed most of the issues raised, on this appeal, with appellate counsel, Mary Owens. Many of the issues are also apparent from the record and should

"have leaped out upon even a casual reading of the transcript" "a habeas petitioner may establish ineffective assistance of appellate counsel by showing what counsel ignored a significant and obvious issue while pursuing weaker claims." *Carpenter* at 947.

In this case a cursory glance of the testimony of Leroy, who presented the only "expert" testimony labeling the fire as arson, would have shown that the acceptance of Leroy as an expert and his testimony

were improper. (see issue I) Had Owens, in Stermer's appeal, raised the issue that Leroy's testimony did not comport with MRE/FRE 702 and that, in so allowing, trial attorney Getting was ineffective. Leroy's testimony of his theory was not based on any scientific methods or data and gave no bases for reliability.

Had Owens looked at the transcripts of the acceptance of Leroy she could have also determined that the trial court did not perform its duty as gate keeper, preventing unreliable testimony from reaching the jury.

The trial transcript would have provided the information to argue several of the prosecutor's improper acts (see issue II (A)(C)) and that trial attorney Getting failed to lodge any objections. The preliminary transcript revealed (issue II (E)) that Detective Rought destroyed her original notes, but also Kaps reference as well to Stermer keeping information from Rought, during his closing. Again showing no objections from Getting.

Stermer was very clear with Owens on the perjured testimony from Pierce (issue II (D)) that was clear from the record, police report, deposition trial transcript. Other issues in which Owens could have raised a claim for ineffective assistance of counsel.

Finally, the last issue raised in this appeal against the prosecutor (issue II (B)) was brought to Owens attention, by Stermer, and is shown by the record. Stermer shared with Owens that Stermer was completely dismayed that Kaps was free to present blatantly false information and detrimental mischaracterization of facts in evidence. Stermer shared that she could not understand why Getting did nothing when Kaps presented these, and that Getting possessed the necessary evidence to

correct the record and did not.

Owens could have determined both issues from the record. There was no testimony from which to infer that Stermer ever said "the phones were in the van according to her". Quite the opposite is presented in Stermers deposition. Kaps reference to two previous fires not being arson could have been determined improper from the record.

Appellate counsel could have determined numerous issues from the record, and yet chose not to raise any of the claims which were stronger issues than those raised in Stermer's first appeal. Raising the issue of the insufficiency of evidence and abuse of discretion in three motions previously raised: Motion to quash the binover, motion for a directed verdict and a motion for a directed verdict and a motion for a new trial, all previously denied.

The most obvious error from the record was the allowance of Leroy's testimony and the only "evidence" of arson. This issue in Stermer's humble opinion held more merit than any of the other errors, also apparent from the record posed so much cumulative error that is hard to justify the ignoring of these and the claim of ineffective assistance of counsel.

ARGUMENT V

MS STERMER'S CONVICTION SHOULD BE REVERSED BECAUSE THE EVIDENCE WAS LEGALLY INSUFFICIENT TO PROVE BEYOND A REASONABLE DOUBT THAT THE FIRE WAS INTENTIONALLY SET OR THAT STERMER INTENTIONALLY SET FIRE THAT RESULTED IN THE FELONY MURDER CHARGE. THE EVIDENCE WAS CONTRARY TO THE GREAT WEIGHT OF EVIDENCE AND FED. R. EVID/MICH R. 702.

STANDARD OF REVIEW

"In determining the sufficiency of the evidence to support a guilty verdict the relevant question is whether after viewing the evidence in the light most favorable to the prosecution any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt" United States v. Pearce 912 F2d 159, 161 (6th quoting Jackson v. Virginia 443 US 307, 319;99 SCt 2781; 61 L Ed 2d 560 (1979)

In undertaking this task, the court must "refrain from independently judging the credibility of the witness or weight of the evidence." United States v. Welch 97 F3d 142, 148 (6th 1996). However, evidence that at most establishes no more than a choice of reasonable probabilities cannot be said to be sufficiently substantial to sustain a criminal conviction upon appeal." United States v. Saunders 325 F2d 840, 843 (6th 1964).

The States reliance on Leroy's testimony was critical in the case against Stermer, hinging on his determination of arson. Without evidence of arson there cannot be homicide by arson. In Stermers case, Leroy's testimony was presented without expert testimony. FRE/MRE 702, rendering it inadmissible.

In Cook v. American S.S. Co. 53 F3d 733 (6th 1995) "The Court of Appeals, Ryan, Circuit Judge held that: (1) opinion of proffered expert was not admissible as expert opinion"... "The first universal



requirement for the admissibility of expert opinion testimony is that the evidence must be reliable and relevant." "The courts determination whether the opinion the expert wishes to offer is properly the subject of "scientific, technical, or other specialized knowledge" is a question of law we review de-novo...When, for example scientific testimony is offered, is the determination whether "the reasoning or methodology underlying the testimony is scientifically valid." Daubert at 2796.

Validity of methods, not the accuracy or "correctness" of the findings is the unwavering requirement when an expert offers opinion testimony. Due to the complete lack of any determination on the record, Leroy's testimony or rather his determination is not valid.

The court is not to "judge the weight of the evidence," here the court has no evidence of arson to consider.

In Cook it was held that: the district court erred when it allowed Timmins to offer expert opinion testimony as to the cause...because the opinion was not the product of any expert testing and was not "scientific, technical, or other specialized knowledge" under Fed R Evid 702." Cook at 743

THE SPECIOUS nature of Leroy's testimony is obvious from the preliminary hearing and the trial record. Leroy testified to his training and experience, his "curriculum vital" was accepted by Getting, and no one objected to Leroy testifying as an expert. (T-III p179-180)

"The Sixth Circuit in Smelser explained: First, the court is to determine "Whether the experts testimony reflects 'scientific knowledge,' Whether their findings are 'derived by the scientific method' and whether their work product amounts to 'good science.'" "An expert opinion that is based on scientifically valid principles will satisfy FRE 702; an expert's subjective belief or unsupported speculation will not." Nemir v. Mitsubishi Motors Corp 200 F Supp 2d 770 (ED Mich 2002) quoting Smelser v. Norfolk Southern Railway Co 105 F3d 299, 303 (6th 1997)

Leroy's testimony provides the following: Leroy did not seize any items from inside the structure for testing. (T-III p206)

Q. My point with this is that in making your conclusions about how

fast this fire spread, one of the things that caused you to believe that there was an accellerant was the speed of the fire spread, is that true?

A That is not the only thing That is one. (T-III p217)

Leroy testified that it was determined that it may be a crime scene because it was "a fatal fire and the direction of what could be an accellerant on the victim." and there was no knowledge of how or where something [accellerant] got on the victims sweat pants. (T-III p210-211)

Q The fire itself was bigger in the middle of the room than it was on the \_\_\_\_\_ either the interior or exterior wall because the floor and ceiling above it was totally consumed?

A. Probably.

Q. Probably, yes?

A. Most likelt. (T-III p217)

Q. It;s hard for you to be exact, you weren't there, you didn't actually see the fire, your drawing conclusions based opinion your experience, your training, your education, and what you saw there?

A. Correct (T-III p217)

"We've been presented with only the expert's qualification, their conclusions and their assurances of reliability. Under Daubert that's not enough." Daubert 1319.

Judge Merritt, Circuit Judge, desenting in Babick v. Berghuis 620 F3d 571 (6th 2010) recognized the importance of the NFPA in the investigation of arson. Babick, like Stermer,

"got convicted of arson on the bases of pure 'junk science'," Idat 580. "The evidence of arson is based on expert testimony inconsistent with the clear standards set out in the bible of arson forensic science, the NFPA"...The remainder of the evidence used to convict Babick is expert testimony of a similar nature that the national standards condemn as unreliable."

Leroy's theory that rapid growth, speed indicated an accellerant are scientifically unsupported and outmoded. This testimony was very prejudicial because a jury is likely to place greater reliance on expert testimony

"Jurors assume that judges review scientific evidence before it is presented to them, and that any evidence used in a trial must be above some threshold of quality. Because of these assumptions jurors seem to be less critical of scientific evidence used in this trial and are more persuaded by it." The GATE KEEPER EFFECT, 15 Psychol. Pub. Poly E 1, 12 (2009)

A. "To determine cause and origin I would obviously inspect the entire structure...comparing most damage verses least damage...The theory behind that is that the longer a fire burns, the more damage it's going to create and the more--the longer it burns, is where the fire starts " (T-III p186)

The only area of Leroy's investigation that were in keeping with the standards, set forth in the NFPA, was documentation of the scene. Beyond that and a complete lack of comporting with Rule 702, Leroy's testimony should no have been relied upon. (See issue I) Leroy presented no evidence, no science, only speculation and opinion cloaked as expert findings.

"When the fact of the burning is established, then it is necessary to show how the act was done, and by whom." "on trial for arson if nothing appears but the mere fact that the house was consumed by fire, the presumption is that the fire was the result of accident or of some providential cause." People v. Lee 231 Mich 607, 612 (1925)

The investigation was concluded the day after the fire happened (T-III p 182)

FEDERAL R CRIM PROC 29 (a) WE CONSIDER EVIDENCE AND INFERENCES IN LIGHT MOST FAVORABLE TO THE GOVERNMENT AND WE REFRAIN FROM INDEPENDENTLY JUDGING THE CREDIBILITY OF WITNESSES OR WEIGHT OF THE EVIDENCE. JACKSON V. VIRGINIA 443 US 307, 319; 99 SCt 2781, 2789; 61 LEd 2d 560

(1979) US v. Welch 97 F3d 142, 148 (6th 1996)

The Sixth Circuit and Michigan have recognized numerous cases where expert testimony must adhere to rule 702 and recognizing the standards set forth in Daubert. Nelson v. Tennessee Gas Pipeline Co 243 F3d 244 (6th Cir 2001) Nemir v. Mitsubiski Motors Corp. 200 F Supp 2d 770 (ED Mich 2002) Zuzla v. ABB Power T E D Co., 267 F Supp 2d 703 (ED Mich 2003) Smelser v. Norfolk Southern Ry. Co. 105 F3d 299 (6th Cir 1997) Berry v Crown Equip Corp 108 F Supp 2d 734 (ED Mich 2000) and People v. Coy 243 Mich App 270 (2000) Where "the Court of Appeals held:... That testimony, unaccompanied by statistical or other interpretive evidence...should not have been admitted because it is essentially meaningless and violates MRE 702."

#### GOOD CAUSE

Fire investigation is a science. To allow testimony which violates clear rules of evidence to be used in stripping a defendant of their liberty and life is a gross miscarriage of justice and negligent at best.

The United States Supreme Court observed that the "cause" requirement be waived where there is a fundamental miscarriage of justice. United States v. Delo 115 SCt 851, 856; 130 L Ed 2d 808 (1995)

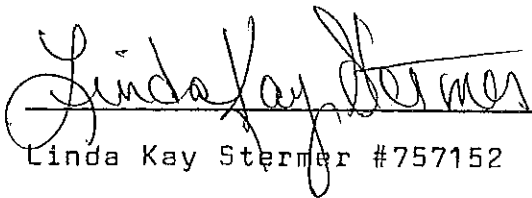
In this present case, Stermer contends that her conviction is invalid, and that she shows good cause for failure to raise this issue in her prior appeal is satisfied where; 1.) external factors prevented her from raising the issue on appeal; 2 ) Ineffective assistance of appellate counsel prevented her from presenting the issue on appeal: and, 3) even if Defendant cannot demonstrate good cause, the court should address the merit of the issue because she suffered and continues to suffer from a miscarriage of justice.

RELIEF REQUESTED

For all of these reasons Linda Kay Stermer respectfully requests that this Court hold an evidentiary hearing on all claims presented in this Motion For Relief From Judgement and, after that hearing, vacate her judgement of conviction or order a new trial.

Dated July 17, 2013

Respectfully submitted,

  
Linda Kay Stermer #757152  
(in pro per)

**Marilyn R. Christensen, LLP, NCP**  
*Consulting, Counseling & Mediation*

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Paw Paw, MI 49079

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May 6, 2013

Linda Stermer, #757152  
Women's Huron Valley Correctional Fac.  
3201 Bemis Rd.  
Ypsilanti, MI 48197

Dear Linda:

As per our telephone conversation of 05/03/13, I am providing you with the following information from your therapy record that you requested regarding your issues with your defense attorney, Jeffery Getting.

I am providing this to you according to the dates of your therapy sessions:

- 09/14/09 Linda very anxious due to her uncertainty of her attorney's diligence. Trial scheduled for 10/27/09.
- 10/22/09 Linda not feeling confident with attorney. He's talking about filing a postponement. Her PTC is tomorrow.
- 10/29/09 Linda expresses a lack of confidence in her attorney. She reports that his secretary is very rude. She has not heard from him since the postponement.
- 11/03/09 Linda is very distraught; she still cannot reach her attorney. She reports having left numerous messages and also dropped off a written letter to his office. She is worried and feels she has no support from her attorney.
- 11/06/09 Linda reports she was given an opportunity to meet with her attorney.
- 11/10/09 Another postponement of the trial. It is now scheduled for 01/05/10. She is very distressed over the delay.

12/15/09 Linda reports difficulty reaching her attorney. December 3 was her last contact with Mr. Getting. She reports that on that day he instructed her to set up an appointment the following week because he wanted to go over the case with her.

12/17/09 Linda came in extremely distressed. Still unable to reach her attorney. I stated to her that I would attempt to reach him on her behalf while she continues to contact him as well.

My efforts were: 12/17 @ 12:45 pm LVM  
12/18 @ 9:30 am LVM  
12/18 @ 9:40 am also LVM on cellphone  
12/18 @ 12:30 pm LVM  
12/18 @ 4:30 pm LVM  
12/20 sent letter by fax asking that he please contact Linda.

12/22/09 Linda reports no contact with attorney. Very depressed. I stated that I would again attempt to contact him on her behalf.

My efforts were: 12/21 called but did not LVM  
12/22 @ 10:00 a.m. LVM  
@1:30 pm spoke w/receptionist, fax  
had been received but she did not have contact with Mr. Getting.  
@ 4:00 pm LVM on cellphone  
12/23 @ 10:02 am LVM on cellphone

12/23/09 I spoke with Linda by phone, she was waiting in Mr. Getting's office in the hope that he would stop by.

At 11:15 am I again spoke with Linda and she reported that Mr. Getting had texted her while she was waiting in his office and stated that he would meet with her at 4:00 pm that same day.

At 6:00 p.m. I received a phone call from Linda stating that she had met with Mr. Getting, however, she reported he had not done any work on her case and she stated that he offered no excuses, explanations, or apologies for not returning her many calls. He scheduled another appointment with her on 12/30/09.

  
Marilyn R. Christensen, LLP, NCP

A

**AFFIDAVIT OF MARTEE BAKHUYZEN**

Name: Martee Bakhuyzen

Occupation: Retired/ work Partime as a Receptionist

I Martee Bakhuyzen swear or affirm:

1. That I am the mother of Linda Stermer and went with her to Attorney Gettings Office on numerous occasions. That we went to his office asking him to contact Todd Chapmen regarding a previous fire. We gave Mr. Getting the NAME & ADDRESS. He refused to contact saying that he would just deny any involment with hy husband concernng the fire.

2. When my daughter was released on bond, Mr Getting told us that he would need a week for preparing my daughter for trial. We Could not reach Mr. Getting (He did not return our calls. Myself, my daughter and her tharapist decided to bombard his office with phone calls, messages and faxes to reach him untill he called us back. Myself and my daughter went to his office trying to catch him to no avail. When he did get back to us just before the trial he said that "We would be ok".

3. Lastly, we begged Mr. Getting to hire an expert. Mr. Getting assured us that an expert in the firld of arson or fire investigation was a waste of money and he woud use the prosecutors ecperts to his own means. Mr. Gettings assured us that the case against my daughter was purly circumstantial and that she had nothing to prove, he also stated that the prosecutor could prove nothing and would not be able to convict her with what little they hadf.

Frther affiant saith not.

I SWEAR OR AFFIRM THAT THE ABOVE REPRESENTATION ARE TRUE AND CORRECT TO THE BEST OF MY INFORMATON, KNOWLEDGE, AND BELIEF.

7-9-2013

Martee Bakhuyzen



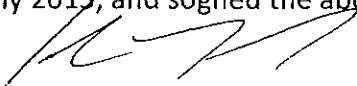
A

Date Martee Bakhuyzen

STATE OF MICHIGAN

COUNTY OF KALAMAZOO

i, the undersigned Notary Public, do hereby affirm that Martee Bakhuyzen personallu appeared befor me on the 9<sup>th</sup> day of July 2013, and sogned the above Affidavit as his free and voluntary act and deed.

  
JOHN MARSHALL  
NOTARY PUBLIC, STATE OF MI  
COUNTY OF KALAMAZOO  
MY COMMISSION EXPIRES Feb 15, 2015  
ACTING IN COUNTY OF

*Kalamazoo*

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**SUPPLEMENT REPORT****PORTAGE POLICE DEPARTMENT**

1. COMPLAINT, DRIVER, VICTIM, OR ARRESTEE <b>STERHER, TODD</b>			2. ARREST NO.	3. COMPLAINT NO. <b>17946-91</b>
4. FORM USED AS CONTINUATION SHEET FOR CURRENT REPORT			5. DATE <b>12/9/91</b>	
4. EXTRA COPIES	5. PAGE NO. <b>2</b>	6. TRAFFIC CITATION NO.	7. FORM USED TO REPORT FOLLOW-UP INVESTIGATION OR SUPPLEMENTAL INFORMATION	
7. KIND OF REPORT CONTINUED <input checked="" type="checkbox"/> OFFENSE <input type="checkbox"/> TRAFFIC ACCIDENT <input type="checkbox"/> ARREST			10. CORRECT OFFENSE OR INCIDENT CLASSIFICATION <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
8. OFFENSE, CHARGE OR INCIDENT ON ORIGINAL REPORT <b>ARSON</b>			11. MULTIPLE CLEAR-UP? <input type="checkbox"/> YES (LIST OTHER COMPLAINT NOS. IN NARRATIVE) <input checked="" type="checkbox"/> NO	
13. INSTRUCTIONS FOR FOLLOW-UP OR SUPPLEMENTAL USAGE			12. VALUE OF PROPERTY RECOVERED <b>\$</b>	

MEM.  
NO.**OFFICER ASSIGNED:**

Undersigned dispatched to Central Fire Station to make contact with the Fire Marshall, reporting person. Upon arrival, contact made with the Fire Marshall in his office.

**REPORTER INTERVIEWED:**

Reporter related that on 11/24/91, the Fire Department was dispatched to a vacant house which had been remodeled into an office-type building in the 6400 block of Naomi. They were dispatched at 0107 hours. It took approximately one hour for the Fire Department to control the fire and extinguish it. The interior of the home was destroyed. Based on his and other employees of the Fire Department's preliminary investigation, they determined that it was an electrical fire.

However, the insurance company sent a private investigator by the name of JIM GARBO to investigate the insurance claim. The house was insured for \$34,000. Approximately one week ago from this date, JIM GARBO inspected the burned house and came up with a different determination than our Fire Marshall. He requested that the State Fire Marshall be summoned to the scene.

Michigan State Police Fire Marshall Detective Sergeant FREDERICK KEMPSKI came to the scene and came to the conclusion, based on patterns on the floor, that the fire possibly was started by some type of incendiary devices.

32. REPORTING OFFICER <b>EGGERDING</b>		33. STATUS (CHECK ONE) <input checked="" type="checkbox"/> OPEN <input type="checkbox"/> SUSPENDED <input type="checkbox"/> CLOSED	34. DATE TIME TYPED <b>12/11/91 Louise</b>		35. APPROVED <b>IT</b>
36. SECOND OFFICER <b>NO</b>		37. SUPERVISOR APPROVING <b>[Signature]</b>	38. UNIT REFERRED TO <b>IT</b>		39. LOCAL DISPOSITION <b>VI</b>

**SUPPLEMENT REPORT****PORTAGE POLICE DEPARTMENT**

1. COMPLAINANT, DRIVER, VICTIM OR ARRESTEE <b>STERMER, TODD</b>		2. ARREST NO.	3. COMPLAINT NO. <b>17946-91</b>
<input type="checkbox"/> FORM USED AS CONTINUATION SHEET FOR CURRENT REPORT		<input type="checkbox"/> FORM USED TO REPORT FOLLOW-UP INVESTIGATION OR SUPPLEMENTAL INFORMATION	
4. EXTRA COPIES	5. PAGE NO. <b>3</b>	6. TRAFFIC CITATION NO.	7. DATE <b>12/9/91</b>
7. KIND OF REPORT CONTINUED <input type="checkbox"/> OFFENSE <input type="checkbox"/> TRAFFIC ACCIDENT <input type="checkbox"/> ARREST <input type="checkbox"/> FOLLOW-UP OR SUPPLEMENTAL OR PROSECUTION		10. CORRECT OFFENSE OR INCIDENT CLASSIFICATION CHANGED? <input type="checkbox"/> YES <input type="checkbox"/> NO	
8. OFFENSE, CHARGE OR INCIDENT ON ORIGINAL REPORT <b>ARSON</b>		11. MULTIPLE CLEARUP? <input type="checkbox"/> YES (LIST OTHER COMPLAINT NOS. IN NARRATIVE) <input type="checkbox"/> NO	
12. VALUE OF PROPERTY RECOVERED <b>\$</b>			
13. INSTRUCTIONS FOR FOLLOW-UP OR SUPPLEMENTAL USAGE Under narrative, record your activity and all developments in the case subsequent to last report. Describe and record value of any property recovered. Name and arrest numbers of any persons arrested. Explain any offense classification change. Clearly show disposition of recovered property and inventory no. Recommend to supervisor case status and to reviewer UCR disposition. Indicate "See Number Continued" at top of any.			

ITEM NO.

Reportee related that at this time, his department is labeling it a suspicious fire, but that the State Fire Marshall is labeling it an incendiary fire. No further information is available at this time.

**STATUS:**

Refer this complaint to Detective PETROSKI, Arson Investigator for the Police Department.

30. REPORTING OFFICER <b>EGGERDING</b>		NO <b>#9</b>	31. STATUS (CHECK ONE) <input checked="" type="checkbox"/> OPEN <input type="checkbox"/> SUSPENDED <input type="checkbox"/> CLOSED	32. DATE TIME TYPED <b>12/11/91 Louis</b>	33. REPRODUCED <input type="checkbox"/> NO <input type="checkbox"/> YES
34. SECOND OFFICER		NO	35. REVIEWER APPROVING <i>[Signature]</i>	36. UNIT REFERRED TO <b>IT</b>	37. UCR DISPOSITION
				38. REVIEWER	



**SUPPLEMENT REPORT****PORTAGE POLICE DEPARTMENT**

1. COMPLAINT, DRIVER, VICTIM, OR ARRESTEE <b>STERMER, TODD</b>			2. ARREST NO.	3. COMPLAINT NO. <b>17946-91</b>
4. FORM USED AS CONTINUATION SHEET FOR CURRENT REPORT			5. FORM USED TO REPORT FOLLOW-UP INVESTIGATION OR SUPPLEMENTAL INFORMATION	
4. EXTRA COPIES	5. PAGE NO. <b>4</b>	6. TRAFFIC CITATION NO.	7. DATE <b>12/16/91</b>	
7. KIND OF REPORT CONTAINED <input type="checkbox"/> OFFENSE <input type="checkbox"/> TRAFFIC ACCIDENT <input type="checkbox"/> ARREST			8. CORRECT OFFENSE OR INCIDENT CLASSIFICATION CHANGED? <input type="checkbox"/> YES <input type="checkbox"/> NO	
8. OFFENSE, CHARGE OR INCIDENT ON ORIGINAL REPORT <b>Arson</b>			9. FOLLOW-UP OR SUPPLEMENTAL OR PROSECUTION <input type="checkbox"/> YES <input type="checkbox"/> NO	
10. INSTRUCTIONS FOR FOLLOW-UP OR SUPPLEMENTAL USAGE			11. MULTIPLE CLEAR-UP? <input type="checkbox"/> YES (LIST OTHER COMPLAINT NOS. IN NARRATIVE) <input type="checkbox"/> NO	
Under narrative, record your activity and all developments in the case subsequent to last report. Describe and record value of any property recovered. Inventory no. Recommend to supervisor case status and to reviewer UCR disposition. Indicate "Item Number Continued" at end of entry.			12. VALUE OF PROPERTY RECOVERED <b>5</b>	

**ASSIGNMENT:**

The U/D has been assigned to this investigation which has been classified as an arson. The determination that it was an incendiary fire was made by the state fire marshal's office at the time when they responded at the request of the insurance claim investigator.

**INFORMATION REGARDING COMPLAINANT:**

✓ As in all arson cases, the possibility exists that when insured property has been burned, the person who would stand to benefit from the insurance money is considered a possible suspect. At this time, no other motive can be found for the fire and there has not been a pattern of arsons occurring in the last few years in the city of Portage.

The owner of the property is TODD STERMER and information provided from the state fire marshall's office, which was turned over to me by the Portage fire marshall, indicates that the residence in question was in the process of being sold and there was remodeling taking place. The report however does not indicate who the property was being sold to and that anyone was contacted to confirm that information. The property involved apparently was a residence and had been lived in by MR STERMER and was being sold to be used as office building. As indicated, none of that information has been verified. It's also unknown at this time how long ago prior to this fire had the property been insured.

10. REPORTING OFFICER <b>R. PETROSKI</b>		11. DATE TIME TYPED <b>12/17/91 ZC</b>		12. REPRODUCED	
11. STATUS <b>OPEN</b>		13. UNIT REPRODUCED TO		14. USER RESPONSIBLE	
12. SUPERVISOR APPROVING <b>[Signature]</b>		15. REVIEWER			

## SUPPLEMENT REPORT

## PORTAGE POLICE DEPARTMENT

1. COMPLAINT, DRIVER, VICTIM, OR ARRESTEE <b>STERMER, TODD</b>		2. ARREST NO.	3. COMPLAINT NO. <b>17946-91</b>
4. FORM USED AS CONTINUATION SHEET FOR CURRENT REPORT.		5. FORM USED TO REPORT FOLLOW-UP INVESTIGATION OR SUPPLEMENTAL INFORMATION	6. DATE <b>12/16/91</b>
7. EXTRA COPIES	8. PAGE NO. <b>5</b>	9. TRAFFIC CITATION NO.	10. CORRECT OFFENSE OR INCIDENT CLASSIFICATION CHANGED? <input type="checkbox"/> YES
11. TYPE OF REPORT CONTINUED <input type="checkbox"/> OFFENSE <input type="checkbox"/> TRAFFIC ACCIDENT <input type="checkbox"/> ARREST <input type="checkbox"/> FOLLOW-UP OR SUPPLEMENTAL OR PROSECUTION		12. MULTIPLE CLEAR-UP? <input type="checkbox"/> YES (LIST OTHER COMPLAINT NOS. IN NARRATIVE) <input type="checkbox"/> NO	
13. OFFENSE, CHARGE OR INCIDENT ON ORIGINAL REPORT <b>ALCOHOL</b>		14. VALUE OF PROPERTY RECOVERED <b>0</b>	
15. INSTRUCTIONS FOR FOLLOW-UP OR SUPPLEMENTAL USAGE. Under narrative, record your activity and all developments in the case subsequent to last report. Describe and record value of any property recovered, names and arrest numbers of any persons arrested. Explain any offense classification changes. Clearly show disposition of recovered property and inventory no. Recommend to supervisor case status and to reviewer LCR disposition. Indicate "Keep Number Continued" at end, if any.			

ITEM NO.

I have run a criminal history check on MR STERMER and have found that he's a w/m with [redacted] a state ID number of [redacted] and an FBI number [redacted]. MR STERMER shows an arrest by the City of Portage PD in 1982 for a misdemeanor A&B for which he was found guilty. He also has an arrest in 1985 by the MSP White Pigeon post for dangerous drugs. He was convicted of a misdemeanor and put on probation for three years. In 1987, MR STERMER was again arrested for dangerous drugs and charged with a misdemeanor there in which he pled guilty and received one day in jail and fines and costs of \$75.00. In 1989, MR STERMER was against arrests by the Portage PD and he was convicted of a misdemeanor, impaired operating of a motor vehicle for which he paid fines and costs of \$515.00.

## INFORMATION FROM STATE FIRE MARSHALL'S REPORT:

The state fire marshal investigator is DET/SOT RICK KEMPSKI. According to his report which has been copied and filed with the original report of this complaint, the property in question is co-owned by TODD STERMER and his brother BRADLEY STERMER and that they'd inherited the property after the demise of their father. Apparently the contact that the investigator had was with TODD STERMER because there is no further information available on BRADLEY STERMER. The report does indicate that there was no one home at the time of the fire and that the building was being remodeled due to

OFFICE USE ONLY

10. REPORTING OFFICER <b>R. PETROSKI</b>	NO	11. STATUS (CHECK ONE) <input checked="" type="checkbox"/> OPEN <input type="checkbox"/> SUSPENDED <input type="checkbox"/> CLOSED	12. DATE TIME TYPED <b>12/17/91 ZC</b>	13. REPRODUCED NO
14. SECOND OFFICER	NO	15. SUPERVISOR APPROVING	16. UNIT REFERRED TO	17. LCR DISPOSITION
			18. REVIEWER	NO



## SUPPLEMENT REPORT

## PORTAGE POLICE DEPARTMENT

1. COMPLAINT, DRIVER, VICTIM, OR ARRESTEE <b>STERMER, TODD</b>			2. ARREST NO.	3. COMPLAINT NO. <b>17946-91</b>
4. FORM USED AS CONTINUATION SHEET FOR CURRENT REPORT			5. FORM USED TO REPORT FOLLOW-UP INVESTIGATION OR SUPPLEMENTAL INFORMATION	
6. EXTRA COPIES	7. PAGE NO. <b>6</b>	8. TRAFFIC CITATION NO.	9. DATE <b>12/16/91</b>	
10. CORRECT OFFENSE OR INCIDENT CLASSIFICATION			11. CHANGED? <input type="checkbox"/> YES <input type="checkbox"/> NO	
12. KIND OF REPORT CONTINUED <input type="checkbox"/> OFFENSE <input type="checkbox"/> TRAFFIC ACCIDENT <input type="checkbox"/> ARREST <input checked="" type="checkbox"/> FOLLOW-UP OR SUPPLEMENTAL OR PROSECUTION			13. MULTIPLE CLEARUP? <input type="checkbox"/> YES (LIST OTHER COMPLAINT NOS. IN NARRATIVE) <input type="checkbox"/> NO	
14. OFFENSE, CHARGE OR INCIDENT OR ORIGINAL REPORT <b>Arson</b>			15. VALUE OF PROPERTY RECOVERED <b>\$</b>	
16. INSTRUCTIONS FOR FOLLOW-UP OR SUPPLEMENTAL USAGE Under narrative, record your activity and all developments in the case subsequent to last report. Describe and record value of any property recovered, names and arrest numbers of any persons involved. Explain any offense classification changes. Clearly show disposition of recovered property and inventory no. Recommend to supervisor case status and to reviewer UCR disposition. Include "Item Number Carried" at last, if any.				

a pending sale agreement. It indicates also that three acres of land were going along with the sale. According to the report, all the doors were closed and locked, both the front and back door, and there had been no fire alarm systems installed or smoke detectors. I have talked to the fire marshall of Portage, FRED BYRNES, and he has indicated also that at the time when the fire department arrived it was necessary for them to force entry into the building because the doors were locked.

The insurance on the residence is through the Wolverine Ins. Co. out of Dowagiac. Their investigator JIM GARNER had been to the fire scene and had requested the fire marshall from the state fire marshall's office to examine the scene.

The fire marshall indicates that prior to his search he did receive a consent to search of the scene by getting consent from TODD STERMER. DET/SGT KEMPSKI did photograph the scene and has sent those photos on for processing to the Lansing photo lab. He also took evidence of burn material from three locations in the residence where he felt that it was obvious that there were burn patterns on the floor which indicated to him that a flammable liquid substance had been used to cause the fire to occur. It was his conclusion that the origin of the fire was in the northwest corner bedroom, but that there was evidence of another origin of fire in the bathroom. Evidence of flammable liquid was seen from those areas on out into the living room and dining room area and to the exterior porch area. DET/SGT KEMPSKI indicates the cause of the fire

30. REPORTING OFFICER <b>R. PETROSKI</b> <b>DET.</b>		31. STATUS (CHECK ONE) <input checked="" type="checkbox"/> OPEN <input type="checkbox"/> SUSPENDED <input type="checkbox"/> CLOSED		32. DATE TIME TYPED <b>12/17/91 zc</b>		33. REPRODUCED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
34. SECOND OFFICER <b>NO</b>		35. SUPERVISOR APPROVING <b>NO</b>		36. UNIT REFERRED TO <b>NO</b>		37. UCR DISPOSITION <b>NO</b>	
38. REVIEWER <b>NO</b>				39. REVIEWER <b>NO</b>			

## SUPPLEMENT REPORT

## PORTAGE POLICE DEPARTMENT

1. COMPLAINANT, DRIVER, VICTIM, OR ARRESTEE <b>STERMER, TODD</b>			2. ARREST NO.	3. COMPLAINT NO. <b>17946-91</b>
13. FORM USED AS CONTINUATION SHEET FOR CURRENT REPORT			9. DATE <b>12/16/91</b>	
4. EXTRA COPIES	5. PAGE NO. <b>7</b>	6. TRAFFIC CITATION NO.	10. CORRECT OFFENSE OR INCIDENT CLASSIFICATION CHANGED? <input type="checkbox"/> YES	
7. KIND OF REPORT CONTAINED <input type="checkbox"/> OFFENSE <input type="checkbox"/> TRAFFIC ACCIDENT <input type="checkbox"/> ARREST <input checked="" type="checkbox"/> FOLLOW-UP OR SUPPLEMENTAL OR PROSECUTION			11. MULTIPLE CLEAR-UP? <input type="checkbox"/> YES (LIST OTHER COMPLAINT NOS. IN NARRATIVE) <input type="checkbox"/> NO	
8. OFFENSE, CHARGE OR INCIDENT ON ORIGINAL REPORT <b>Arson</b>			12. VALUE OF PROPERTY RECOVERED \$	
13. RECOMMENDATIONS FOR FOLLOW-UP OR SUPPLEMENTAL USAGE. <small>Under reporting, record your activity and all developments in the case subsequent to this report. Describe and record value of any property recovered. names and arrest numbers of any persons arrested. Explain any offense classification change. Clearly show disposition of recovered property and inventory no. Recommend to supervisor case being and to reviewer LCR disposition. Indicate "See Number Covered" at last, if any.</small>				

as humanly caused due to the characteristics of flammable liquid burn pattern throughout the entire residence. The debris material that he has sent on to the state crime lab will be examined for the presence of flammable material.

It should be noted that the report does indicate that the residence was insured for the amount of \$34,600, however, there was no insurance on contents of the residence, there were no contents in the residence.

## STATUS:

Open, pending further investigation.

30. REPORTING OFFICER <b>R. PETROSKI</b> DET. <b>RP</b>		31. STATUS (CHECK ONE) <input checked="" type="checkbox"/> OPEN <input type="checkbox"/> SUSPENDED <input type="checkbox"/> CLOSED		32. DATE TIME TYPED <b>12/17/91 2C</b>		33. REPRODUCED <input type="checkbox"/> NO	
34. SECOND OFFICER NO		35. SUPERVISOR APPROVING <b>1-6</b>		36. UNIT REFERRED TO <b>RPET</b>		37. LCR DISPOSITION NO	



## SUPPLEMENT REPORT

## PORTAGE POLICE DEPARTMENT

1. COMPLAINANT, DRIVER, VICTIM OR ARRESTEE STERMER, TODD			2. ARREST NO.	3. COMPLAINT NO. 17946-92
<input type="checkbox"/> FORM USED AS CONTINUATION SHEET FOR CURRENT REPORT			<input checked="" type="checkbox"/> FORM USED TO REPORT FOLLOW-UP INVESTIGATION OR SUPPLEMENTAL INFORMATION	
4. EXTRA COPIES	5. PAGE NO. 33	6. TRAFFIC CITATION NO.	10. CORRECT OFFENSE OR INCIDENT CLASSIFICATION	9. DATE 3/31/92
7. KIND OF REPORT CONTINUED <input type="checkbox"/> OFFENSE <input type="checkbox"/> TRAFFIC ACCIDENT <input type="checkbox"/> ARREST <input checked="" type="checkbox"/> FOLLOW-UP OR SUPPLEMENTAL OR PROSECUTION			11. MULTIPLE CLEAR-UP? <input type="checkbox"/> YES (LIST OTHER COMPLAINT NOS. IN NARRATIVE) <input type="checkbox"/> NO	CHANGED? <input type="checkbox"/> YES
8. OFFENSE, CHARGE OR INCIDENT ON ORIGINAL REPORT Arson			12. VALUE OF PROPERTY RECOVERED \$	
13. INSTRUCTIONS FOR FOLLOW-UP OR SUPPLEMENTAL USAGE: Under narrative, record your activity and all developments in the case subsequent to last report. Describe and record value of any property recovered, names and arrest numbers of any persons arrested. Explain any offense classification change. Clearly show disposition of recovered property and inventory no. Recommend to supervisor case status and to reviewer UCR disposition. Indicate "Item Number Continued" at last, if any.				

ITEM NO.

being his own. The information for MCMANN would be supportive of what was told to me in the original interview with CHRIS KHOURY and TOM EBERT.

## CONTACT WITH WHITE PIGEON MSP POST:

I've also been in contact with TRPR JIM BEDELL of the White Pigeon Post who indicated he recalled the incident involving STERMER that he had investigated. He states that that fire was definitely an arson and that it never was shown who was involved or responsible for that incident. He states that TODD STERMER, the complainant in this incident, was the insured party and was regarded as the suspect. The contact made with TRPR BEDELL was on 3/26/92.

## RECONTACT WITH INSURANCE CO:

On this date, I also made contact with a Wolverine Mutual Insurance agent JOHN BREITENBACH who informed me that they'll be settling the claim with TODD STERMER for the amount of \$20,000. I advised him of all the efforts that had been made to identify a suspect in this case and the fact that there were no further leads that have not been exhausted and that at this time, the investigation was going to be made inactive after contact was made with MR STERMER, who was the original reporting person and that notification made.

30. REPORTING OFFICER R. PETROSKI DET. <i>RP</i>		31. STATUS (CHECK ONE) <input checked="" type="checkbox"/> OPEN <input type="checkbox"/> SUSPENDED <input type="checkbox"/> CLOSED		13. DATE/TIME TYPED NO 4/1/92 ZC		14. REPRODUCED NO	
32. SUPERVISOR APPROVING <i>[Signature]</i>		33. REVIEWER <i>[Signature]</i>		15. UCR DISPOSITION			



Run: 11/02/2007  
10:59

Van Buren County Sheriff's Department

Report of Incident Detail / Followup

Page: 3  
of 4

Incident 2007 0068027

police and CORY PIERCE informed investigating officer that they sat in a patrol car for approximately 20 minutes until they went over to the MOUSSALLI'S, who were neighbors of theirs.

CORY PIERCE also told investigating officer that he was informed that his father had died at the scene by police officers. At that time, investigating officer asked CORY PIERCE if he had a cell phone at that time, at which he stated at that time he did. Investigating officer asked what the cell phone number was and was informed it was 269-352-6373. Investigating officer also asked if his mother had a cell phone, which he stated that she had two cell phones, which he identified as one being her regular phone and the other being a work phone.

CORY PIERCE told investigating officer that if he could not get ahold of his mother, LINDA STERMER, on her regular cell phone that he would contact her on the work phone. Investigating officer asked if he remembered what the cell phone numbers were to his mother, LINDA STERMER'S, phones and he stated that he did not remember what the numbers were and that she had a new cell phone since then. He also told investigating officer that his father also had a cell phone as did his brothers, TRENTON and TREVOR.

Investigating officer asked if that was at the time of the fire and he stated that it was. Investigating officer asked CORY PIERCE if he had ever been told by his mother, LINDA STERMER, how the fire did happen. He stated that he had been told by her that she did not know how it had happened. At that time, investigating officer asked CORY PIERCE about the arguments between his father and mother and asked if there had been any violence between the two of them. He stated that he had seen his father, TODD STERMER, hit his mother, LINDA STERMER, on prior occasions. He stated that on one occasion it was while they lived in a house in Kalamazoo and on another occasion, that it occurred in a house in Lawrence, other than the one that burned down.

Investigating officer asked what he had seen. He stated it was more that he had heard TODD hitting LINDA rather than seeing it happen. Investigating officer asked CORY PIERCE if there any friends of his mother that he knew that she spent time with. He informed investigating officer that his mother did hang out with KATE SWIFT and with another woman by the name of KATE FOX. Investigating officer asked about any of his father's friends. He stated that there was a friend of his dad's, who he knew as TC, who was a white male, approximately 40-50 years old from Kalamazoo, who had came out recently.

He stated that TC had been out to the house recently after he had been involved in an accident prior to the fire and that his father borrowed STEVEN DUNN'S car to give the friend a ride home. Investigating officer asked CORY PIERCE if his mother had ever discussed any of the nature of the arguments to which he stated that she had not, however, that occasionally his mother would ask him who he would want to live with. Investigating officer asked CORY PIERCE where he had gone, after the fire, to live. He stated for approximately 4 months, he and his brothers along with his mother, LINDA STERMER, moved into KATE SWIFT'S home and lived there with her family.

He also stated that after the fire, they had gotten new cell phones. He then stated after 4 months with the KATE SWIFT family, that they rented a house in the village of Lawrence and off and on ASHLEY GIBSON and BRITTANY GIBSON would stay there as well. Investigating officer asked CORY PIERCE about an incident between his brother, TREVOR STERMER and ASHLEY GIBSON in regards to a domestic argument. He stated that there had been a domestic argument in the home in Lawrence between ASHLEY and TREVOR, to which investigating officer asked if there had been talk about a firearm at that time.

Page 30	Page 32
<p>1 Q Two bedrooms upstairs or one bedroom or what?</p> <p>2 A <b>Two bedrooms upstairs.</b></p> <p>3 Q So did you ever -- let me back up. Do you remember the last time you talked to your dad?</p> <p>4 A <b>No.</b></p> <p>6 Q Really?</p> <p>7 A <b>No.</b></p> <p>8 Q What is the last memory you have of your dad?</p> <p>9 A <b>On Sunday I saw him upstairs watching T.V.</b></p> <p>10 Q So there was another T.V. upstairs?</p> <p>11 A <b>Yeah.</b></p> <p>12 Q Is it kind of like upstairs was the parents' T.V.,</p> <p>13 downstairs was the boys' T.V.?</p> <p>14 A <b>Yeah, pretty much.</b></p> <p>15 Q And so where was your dad sitting when he was watching T.V.?</p> <p>16 A <b>Upstairs in the living room in a chair.</b></p> <p>17 Q Did he have, like, his chair he always sat in?</p> <p>18 A <b>Pretty much.</b></p> <p>19 Q And that's the chair he was in?</p> <p>20 A <b>Yeah.</b></p> <p>21 Q Was he awake? Was he sleeping?</p> <p>22 A <b>He was awake.</b></p> <p>23 Q Did you say, "See you later, Dad"?</p> <p>24 A <b>No. I just went.</b></p> <p>25 Q Why is that?</p>	<p>1 A <b>Yeah.</b></p> <p>2 Q What did you do?</p> <p>3 A <b>Helped carry drywall and putting in nails and stuff.</b></p> <p>4 Q So he was teaching you how to hang drywall and stuff?</p> <p>5 A <b>Uh-huh (affirmative).</b></p> <p>6 Q "Yes"?</p> <p>7 A <b>Yes.</b></p> <p>8 Q Did you help out with maintaining stuff once you were living in there? I mean, were you -- I mean, something would break; would he say, "Come on, Cory, we're going to fix this"?</p> <p>12 A <b>No.</b></p> <p>13 Q Do you remember if your dad was sick at the time of the fire?</p> <p>15 A <b>I think he was on medication for -- 'cause he was, like -- something was wrong with his equilibrium or something.</b></p> <p>17 Q How did you know that?</p> <p>18 A <b>'Cause he had told us that he was, like, off balance sometimes.</b></p> <p>20 Q How long had that been going on?</p> <p>21 A <b>About a week or two, maybe.</b></p> <p>22 Q And what about his -- was he in pain from anything?</p> <p>23 A <b>I don't know. I don't think so.</b></p> <p>24 Q Any other health problems your dad had? I mean, did he have, like, high blood pressure or high cholesterol? Was he</p>
Page 31	Page 33
<p>1 A <b>I don't know.</b></p> <p>2 Q Were you avoiding him? Or that was typical for you to just walk out without saying good-bye?</p> <p>4 A <b>It was typical. We just -- yeah.</b></p> <p>5 Q Did he seem happy, sad, tired, sick, energetic?</p> <p>6 A <b>I don't know.</b></p> <p>7 Q I mean, did he seem -- what can you tell me about your dad the last time you saw him?</p> <p>9 A <b>I just glanced around the corner and saw him real quick, so I didn't really --</b></p> <p>11 Q Do you know what he was wearing?</p> <p>12 A <b>No.</b></p> <p>13 Q So when is the last time you remember having a conversation with your dad?</p> <p>14 A <b>Probably the weekend before that, maybe. I don't --</b></p> <p>16 Q So the last time you remember having a conversation with your dad was a week before the fire?</p> <p>18 A <b>I don't -- I don't know.</b></p> <p>19 Q Do you remember if the last time you talked to him was positive or negative? Were you fighting or were you getting along?</p> <p>22 A <b>We were getting along I think.</b></p> <p>23 Q Your dad built the house you lived in?</p> <p>24 A <b>Yeah.</b></p> <p>25 Q Did you help?</p>	<p>1 treating for any of that kind of stuff?</p> <p>2 A <b>No.</b></p> <p>3 Q Was he generally healthy or unhealthy?</p> <p>4 A <b>Healthy.</b></p> <p>5 Q Pretty active? Pretty lazy? What?</p> <p>6 A <b>Active.</b></p> <p>7 Q What kinds of things was your dad doing? I mean, what would he do when he would just be doing stuff around the place?</p> <p>9 A <b>He'd come and play, like, sports outside with us, like football and stickball and stuff.</b></p> <p>11 Q The fire was January 7; right?</p> <p>12 A <b>Uh-huh (affirmative).</b></p> <p>13 Q That Christmas you had together just before, do you remember anything special about that? Was it a really good Christmas? Was it a really bad Christmas? Was it --</p> <p>16 A <b>Average I think.</b></p> <p>17 Q Did you go anywhere?</p> <p>18 A <b>I think we were out at our house.</b></p> <p>19 Q You had relatives over?</p> <p>20 A <b>Yeah, I think so.</b></p> <p>21 Q His family or her family?</p> <p>22 A <b>His family.</b></p> <p>23 Q Did you get gifts from Mom and Dad?</p> <p>24 A <b>Yeah.</b></p> <p>25 Q Were they bigger, smaller, average -- than usual?</p>

NetworkReporting

1-800-632-2720

# BUILDING PERMIT

## BUILDING DEPARTMENT

240 North Grand • Suite #1  
Schoolcraft, MI 49087-0662  
(616) 679-4900  
1 (800) 627-2801

Date: 9/25/98

Jurisdiction of Lawrence

Permit #

7-101-98065

New residential construction, addition, and alteration

Job Address:

16398 C.R. 215

Property Tax I.D.:

80-13-029-002-40

Zoning district:

AG

Permit Determinant:

240558

Use Group:

R3

Owner:

Todd Stamer (616) 674-3210

Type Const.:

Stick 5B

Address:

44849 418<sup>th</sup> St. (616) 674-7611

Basic Dimensions:

38

ft. x

50

ft.

Contractor:

Same Lawrence 727 97064

No. Floors:

3

Address:

Same

Sq. ft. main floor

1800

No. rooms 2nd floor

5

Sq. ft. second floor

1476

No. full baths

3

Sq. ft. fin. basement

1

No. half baths

Sq. ft. unfin. bsmt.

1800

No. fireplaces

2

No. rooms 1st floor

1

No. chimneys

Sq. ft. garage (attached garage requires fire separation)

No. wood burners

Sq. ft. porches/breezeways

Sq. ft. wood deck

(ft.) ceiling height

(ft.) building height

PLEASE FILL IN OR CHECK THE APPROPRIATE SPACES BELOW:

### FOUNDATIONS (11)

figs. "x"

" below fin. grade

No. post footings

"x" "x"

☒ Poured walls

H.C. block

Wood foundation

(provide diagram)

9 Ft. Foundation wall height

" crawl space wall height

" egress sill height

2 No. bsmt. windows

Crawl space vent openings

### ROUGH-IN FRAMING (10)

☒ Sill plate (treat.)

☒ Wall plates

☒ headers

☒ wood girder

☒ steel girder

post ft. O.C.

☒ stud wall

☒ masonry

☒ fl. joists 18" O.C.

☒ Cell. jsts 18" O.C.

☒ Rafters 18" O.C.

Truss (diagram required)

3/4" floor sheathing

7/16" wall sheathing

7/16" roof sheathing

" corner brace sheath

### EXTERIOR (3)

☒ Wood

Aluminum/Vinyl

Brick

Block

### ROOFS (4)

Hip

Gable

☒ Front overhang

☒ Other overhang

☒ Eavestrough

### CHIMNEY TYPE

☒ Brick

☒ Block

☒ Stone

Metal

Asphalt Shingles

Underlayment

Vents

Other Coverings

### WINDOWS (5)

30 No. of windows

☒ Wood sash

Metal sash

Type

egress/bedrms

☒ attic access 22" x 30"

### INSULATION (9)

☒ Fiberglass

Cellulose

" Blown in lb. glass

" Foam

other

" rigid poly ure.

" rigid styro

" Insul sheath

wind barrier

(mil) moisture barr.

### INTERIOR (13)

☒ Foyer

☒ Kit fl.

☒ Other fl.

☒ drywall

plaster

☒ covered ceiling

pnl. wainscot

5/8" garage fire code

### BUILT-IN ITEMS (15)

oven range

☒ disposal

☒ hood/fan

☒ dishwasher

refrigerator

Incinerator

vanities

" cupboard length

Permits eventually required for this project:

Electrical Permit

☒ yes ☐ no

Plumbing Permit

☒ yes ☐ no

Mechanical Permit

☒ yes ☐ no

COST OF PERMIT \$ 610.00

Building Dept.

By: SEP 08 1998

Make checks payable to:

pd. 9/8 #2035 SB

# ELECTRICAL PERMIT

LAWRENCE TOWNSHIP  
BUILDING  
DEPARTMENT  
P.O. Box 662  
240 N. Grand, Suite 1  
Schoolcraft, MI 49067-0662  
(616) 679-4900  
1 (800) 627-2801

Date 8-29-02  
LAWRENCE TOWNSHIP

Permit # 7-E-98065

Job Location 66598 CR 215, Lawrence, MI 49064  
Power Co. Consumers Energy Request No. 02136512  
Owner Todd Stermer Phone No. (616) 674-3210  
Address P.O. Box 673, Lawrence, MI 49064

PLEASE FILL IN OR CHECK THE APPROPRIATE SPACES BELOW:

COMMERCIAL			RESIDENTIAL	
	No.	ITEMIZATION		
Plan review and administration base fee and all required and final inspections		\$84.00	Single Inspection	\$42.00
Services:		\$ 10.50	Service Upgrade	\$42.00
Through 200 amp		15.75	Addition or Remodel	\$99.75
200 amp thru 600 amp		21.00	Addition or Remodel With Service Upgrade	\$136.50
600 amp thru 800 amp		26.25	New Residence	\$136.50
800 amp and over		3.15 each	<b>FOR RESIDENTIAL PERMITS:</b> Please indicate applicable equipment in "No." column, and disregard commercial fee schedule.	
Circuits	9	6.30 each		
Lighting Fixtures - per 25 and fraction of	2	4.20 each		
Dishwasher, Garbage Disposal & Range Hood	3	5.25 each		
Furnace - unit heater	1	4.20 each		
Electrical heating units (baseboard)		7.35 each		
Power Outlets (including (including ranges, dryers, etc.)	1	5.25 each		
Signs - per circuit		5.25 each		
Feeders		6.30 each		
Mobile Home Park Sites		4.20		
Recreational Vehicle Park Sites		6.30	Building Dept.	
K.V.A. or H.P. - each unit up to 20 K.V.A./H.P.		10.50	By: <u>B. White</u>	
21 to 50 K.V.A. or H.P.		12.60	Make Checks Payable to:	
51 K.V.A. or H.P. and over		52.50	LAWRENCE TOWNSHIP	
Fire Alarm Up to 10 stations and horns		105.00	PLV# 2051 9/3/02	
11 to 20 stations and horns		5.25 each		
over 21 stations and horns				
Enter Cost of Permit: TOTAL				
Contractor Name <u>(Self) Todd Stermer</u>		Phone <u>(616) 674-3210</u>		
Address <u>P.O. Box 673</u>		City <u>Lawrence</u>	State <u>MI</u>	Zip <u>49064</u>
Federal ID No./Social Security no. <u>380-72-7464</u>		MESC Employer No.		
License No.	Expiration Date	Worker's Disability Compensation Carrier		

If exempt from any of the above, explain here:

☒ I am/will be the owner and occupant of premises on which the described installation is proposed.

Section 23A of the State Construction Code Act of 1972, Act No. 230 of the Public Acts of 1972, being Section 125.1523a of the Michigan Compiled Laws, prohibits a person from conspiring to circumvent the licensing requirements of this state relating to persons who are to perform work on a residential building or a residential structure. Violators of Section 23a are subject to civil fines.

## HOME OWNER'S AFFIDAVIT and SIGNATURE

I hereby certify that the work described above shall be installed in accordance with the local code and shall not be enclosed, covered up, or put into operation until it has been inspected and approved by the inspector. I will cooperate with the inspector and assume the responsibility to arrange for necessary and timely inspections.

Signed: Todd Stermer Date: 8-29-02

## AGENT/CONTRACTOR AFFIDAVIT and SIGNATURE

I hereby certify that the proposed work is authorized by the owner of record and I have been authorized by the owner to make this application as his authorized agent.

Signed: Todd Stermer Date: 8-29-02



**LAWRENCE TOWNSHIP  
BUILDING  
DEPARTMENT**  
P.O. Box 662  
240 N. Grand, Suite 1  
Schoolcraft, MI 49087-0662  
(616) 679-4900  
(800) 627-2801

# MECHANICAL PERMIT

Date 12-23-02

LAWRENCE TOWNSHIP

Permit # 7-M-98065

Job Location 66598 CR. 215 - Lawrence, MI 49064

Owner Todd Stemer Phone No. 674-3210

Address P.O. Box 673 - Lawrence, MI 49064

PLEASE FILL IN OR CHECK THE APPROPRIATE SPACES BELOW:

COMMERCIAL				RESIDENTIAL	
	No.	ITEMIZATION			
Plan review, administrative base fee and all required and final inspections			\$84.00	Single Inspection	42.00
Gas oil burning equipment-new and/or conversion	1	\$26.25 ea.		Addition/Remodel	\$99.75
Chimney, Factory built (Class A)	1	26.25 ea.		New Residence	99.75
Duct System/Hydronic Piping	1	21.00		<b>FOR RESIDENTIAL PERMITS:</b> Please indicate applicable equipment in "No." column, and disregard commercial fee schedule.	
Solar Equipment System + Piping System	1	15.75			
Gas Piping (New Installation)	1	5.25			
Exhaust Fan/Power Exhaust	3	5.25			
Flue Damper/Vent Damper	2	5.25			
L.P.G. & Fuel Oil Tanks (piping fee incl.)	1	15.75			
Central Air Conditioning & Heat Pump	1	15.75		COST OF PERMIT: \$ <u>99.75</u> Building Dept. <u>[Signature]</u> By <u>[Signature]</u> Make Checks Payable to: <u>LAWRENCE TOWNSHIP</u>	
Enter Cost of Permit: TOTAL					

Contractor Name [Signature] Phone ( ) [Signature]

Address [Signature] City [Signature] State [Signature] Zip [Signature]

Federal ID No./Social Security no. [Signature] MESC Employer No. [Signature]

License No. [Signature] Expiration Date [Signature] Worker's Disability Compensation Carrier [Signature]

If exempt from any of the above, explain here:

☒ I am/will be the owner and occupant of premises on which the described installation is proposed.

Section 23A of the State Construction Code Act of 1972, Act No. 230 of the Public Acts of 1972, being Section 125.1523a of the Michigan Compiled Laws, prohibits a person from conspiring to circumvent the licensing requirements of this state relating to persons who are to perform work on a residential building or a residential structure. Violators of Section 23a are subject to civil fines.

## HOME OWNER'S AFFIDAVIT and SIGNATURE

I hereby certify that the work described above shall be installed in accordance with the local code and shall not be enclosed, covered up, or put into operation until it has been inspected and approved by the inspector. I will cooperate with the inspector and assume the responsibility to arrange for necessary and timely inspections.

Signed: Todd Stemer Date: 12-19-02

## AGENT/CONTRACTOR AFFIDAVIT and SIGNATURE

I hereby certify that the proposed work is authorized by the owner of record and I have been authorized by the owner to make this application as his authorized agent.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

USER 1099 PAGE 605

WARRANTY DEED



STATUTORY FORM FOR INDIVIDUALS

This Indenture,

Dated this day of:  
NOVEMBER 7, 1996

KNOW ALL MEN BY THESE PRESENTS THAT:

GERRI FLEETWOOD, A MARRIED WOMAN  
25512 CR 665  
BLOOMINGDALE, MI 49026

Convey(s) and Warranty(s) To:

KEVIN R. LOCKHART AND SUSAN J. LOCKHART, HUSBAND AND WIFE  
49482 49TH STREET  
LAWRENCE, MI 49064

for the sum of

REAL ESTATE TRANSFER VALUATION AFFIDAVIT FILED

the following described premises situated in

THE TOWNSHIP OF LAWRENCE, COUNTY OF VAN BUREN AND STATE OF MICHIGAN TO WIT:

BEGINNING ON THE EAST LINE OF SECTION 29, TOWN 3 SOUTH, RANGE 15 WEST AT A POINT 793.90 FEET SOUTH OF THE EAST QUARTER POST OF THE SECTION; THENCE WEST, 264.00 FEET; THENCE NORTH, 165.00 FEET; THENCE SOUTH 89 DEGREES 17 MINUTES 55 SECONDS WEST, 976.45 FEET; THENCE NORTH 77 DEGREES 00 MINUTES 30 SECONDS WEST, 472.50 FEET; THENCE SOUTH 34 DEGREES 55 MINUTES 47 SECONDS WEST, 241.11 FEET; THENCE SOUTH 07 DEGREES 22 MINUTES 52 SECONDS WEST TO THE SOUTH LINE OF THE NORTH HALF OF THE SOUTHEAST QUARTER; THENCE EAST ON SAID SOUTH LINE, 1913 FEET MORE OR LESS TO THE EAST LINE OF THE SECTION; THENCE NORTH ON SAME, 515.00 FEET TO THE PLACE OF BEGINNING.

80 13 029 001 40

SUBJECT TO EASEMENTS, RESERVATIONS, RESTRICTIONS AND LIMITATIONS OF RECORD, IF ANY.

Witnessed

Signed and Sealed

*Kimberly S. Pudzyn*  
KIMBERLY S. PUDZYN

*Geri Fleetwood*  
GERRI FLEETWOOD

*Karen Witt*  
KAREN WITT

STATE OF MICHIGAN COUNTY OF VAN BUREN

The foregoing instrument was acknowledged before me

ON NOVEMBER 7, 1996 BY GERRI FLEETWOOD, A MARRIED WOMAN

PREPARED BY:

GERRI FLEETWOOD  
25512 CR 665  
BLOOMINGDALE, MI 49026

ASSISTED BY:

THE TITLE OFFICE, INC.  
215 NORTH KALAMAZOO STREET  
PAW PAW, MICHIGAN, 49779

I certify that, on the day hereon recorded, neither the state nor any local government has any lien, and that all taxes due on the said premises have been paid, except that if checked here ☐ this certificate does not cover taxes for the most recent year because the delinquent tax roll for said year is not available.

*Wayne D. Nelson* 11-12-96  
VAN BUREN COUNTY TREASURER, L.

*Kimberly S. Pudzyn*  
KIMBERLY S. PUDZYN  
NOTARY PUBLIC VAN BUREN COUNTY, MICHIGAN  
MY COMMISSION EXPIRES: 10/16/1999

WHEN RECORDED RETURN TO

RECORDED

Nov 12 12 35 PM '96

*Kimberly S. Pudzyn*



VAN BUREN/CASS DISTRICT PUBLIC HEALTH DEPARTMENT

VAN BUREN COUNTY OFFICE  
Environmental Health Services  
57418 CR 681, Suite A  
Hartford, MI 49057  
(616) 621-3143

CASS COUNTY OFFICE  
Environmental Health Services  
201 M-62 North  
Cassopolis, MI 49031  
(616) 445-5280

SANITATION PERMIT APPLICATION FOR

☒ New Construction \$45.00      ☐ Existing/Replacement \$45.00      ☐ Hook-up to Existing System \$45.00      ☐ Business/Migrant Housing \$60.00

APPLICATION FOR Todd & Linda Sterner Telephone # (616) 701-1111 (Fax)  
Owner's Name

49849 48th St City Lawrence State MI Zip 49064  
Complete Current Mailing Address

LOCATION OF PROPERTY Township Lawrence Section 29 Lot Size 120 AC.

Address/Street/Avenue 66398 CR 215 Lawrence MI

CR 215 South 3 miles from light in Lawrence. Driveway on right on south side of condemned house Provide Directions to Property TOP OF Hill - on CR 215

Subdivision Name (if applicable) \_\_\_\_\_ Lot Number \_\_\_\_\_

ANSWER FOLLOWING QUESTIONS

Is this a single family dwelling? ☒ Yes ☐ No IF NO..... \_\_\_\_\_  
List dwelling type and/or Business Name

Will you have or do you have a garbage grinder in the kitchen sink? ☒ Yes ☐ No Number of bedrooms in home? 4 Number of occupants? 7

Note: Prior to this department performing any site evaluation that involves disturbing the ground surface, i.e. auger borings, probing, etc., the property owner(s) must contact MISS DIG to clearly identify any/all underground utilities. If the property owner(s) fails to notify MISS DIG, then the local public health department assumes no liability in the event of any damages occurring and the property owner shall bear all cost of repairs.

Todd N. Sterner  
Applicant's Signature

Note: A Soil Erosion & Sedimentation Permit is needed when any soil is disturbed within 500' of any water bodies, (i.e. lake, stream, pond, river, etc.) by contacting the Van Buren County Courthouse at (616) 657-8230 or the Cass County Road Commission at (616) 445-8611.

HEALTH DEPARTMENT USE ONLY

8/5/98 03823 5085  
Application Received Receipt Number Computer ID Number

VAN BUREN/CASS COUNTY DISTRICT PUBLIC HEALTH DEPARTMENT

Van Buren County Office  
57418 CR 681, Suite A  
Hartford, MI 49057

Cass County Office  
201 M-62 North  
Cassopolis, MI 49031

Permit for: ☒ New Well-\$45, ☐ Replace Existing Well \$45, ☐ Hook-up to Existing Well \$45, ☐ Business/Migrant Housing Well \$60

For Health Department Use Only  
Well Permit Number 98-566  
98-618  
Corresponding Sewage Permit No.

APPLICATION AND PERMIT TO INSTALL  
A PRIVATE OR TYPE III WATER SUPPLY

For Health Department Use Only  
Today's Date 8/5/98  
Receipt Number 03823

NAME Tom & Linda Stornoy ADDRESS 66398 CR 215 CITY/STATE Lawrence MI ZIP 49004  
(Owners)

PHONE # 674-7011 TOWNSHIP Lawrence SECTION 29 SUBDIVISION NAME  LOT #

WELL CONTRACTOR'S NAME  LOCATION OF WELL 66398 CR 215  
Address/Street/Avenue

DRIVING DIRECTIONS CR 215 south 3 miles from light in Lawrence Driveway By Barn

APPLICANT'S SIGNATURE Tom Stornoy

(For Health Department Use Only - Do Not Write In Shaded Area)

Well Construction APPROVAL / DENIAL BY Jim S. Wright DATE 8/10/98  
Well Site Evaluation Information Date of Evaluation 8/10/98 BY Jim S. Wright  
Standard Isolation Area NO  
Major Isolation Area NO  
Permit Conditions / Deviation

FINAL INSPECTION  
WELL  
Casing Termination Approved YES / NO  
Location Approved YES / NO  
Construction Satisfactory YES / NO  
PUMP  
Shallow Well / Deep Well / Submersible  
Hand Pump / Other  
Drilling Materials  
Storage Time / Location  
Capacity / Gallons / Operating Range  
Test Results  
Bacteriological / Other  
Nitrate / Other / Water Collected  
Well Log Record  
Date Received  
Water Supply Approved YES / NO  
Date  
Health Dept Representative

SCALE DRAWING: Make a SCALE DRAWING, including dimensions, in the space provided below. Locate all possible sources of contamination.  
NORTH

SCALE DRAWING  
NORTH  
Handwritten notes: claim, horse stable, 50841

After well construction is completed, a water well record must be submitted to the Health Department. Notify the Health Department for a final inspection and sampling of the well.



# BUILDING PERMIT

This Permit Must Be Displayed on  
the Premises When Work Starts

Any person wilfully destroying this permit before the completion of this building will be punished the full extent of the law.

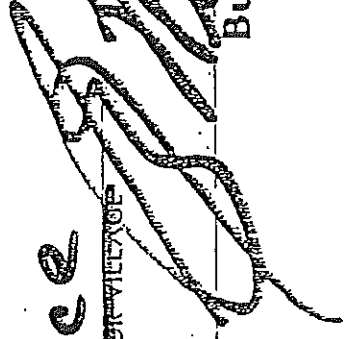
Date 9-25-98 Permit No. 7-101-98065

This permit is issued for the ( Erection ) of a Single Family Residence

Location: 66398 CR 215

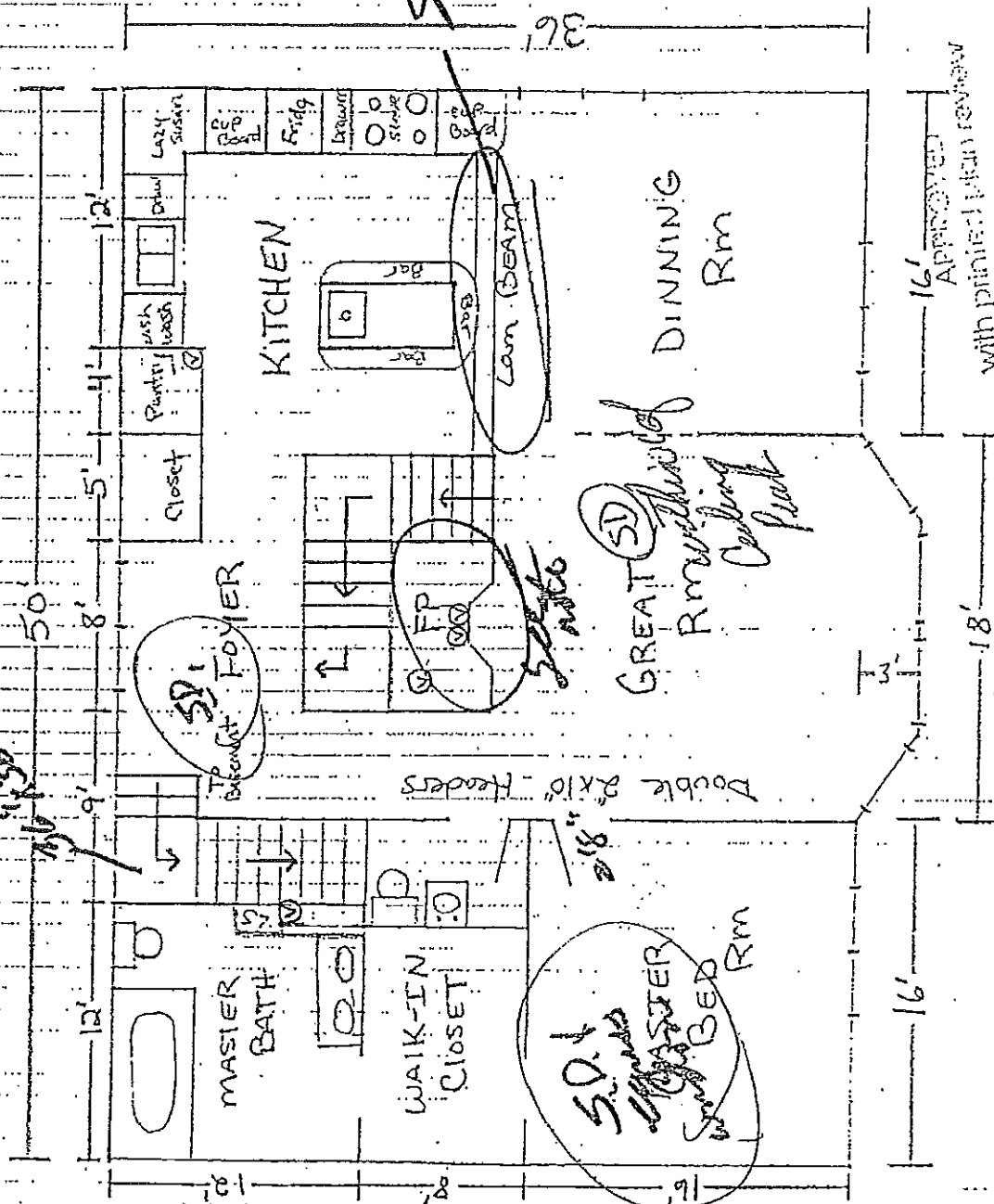
Lawrence

NAME OF ~~OWNER~~, TOWNSHIP OFFICER



Building Inspector.

SEP 22 1998

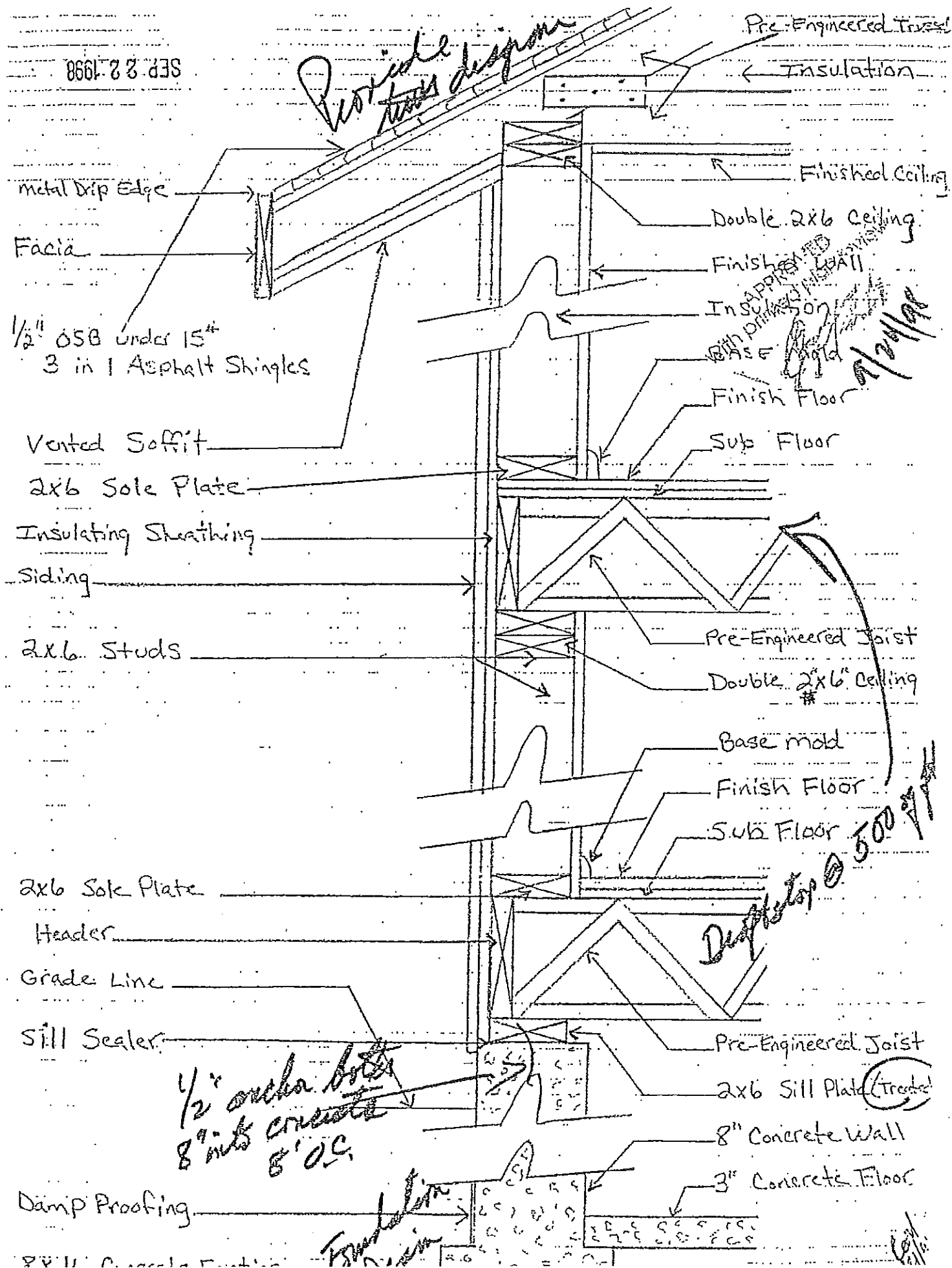


MAIN FLOOR

16' APPROVED  
with printed plan review

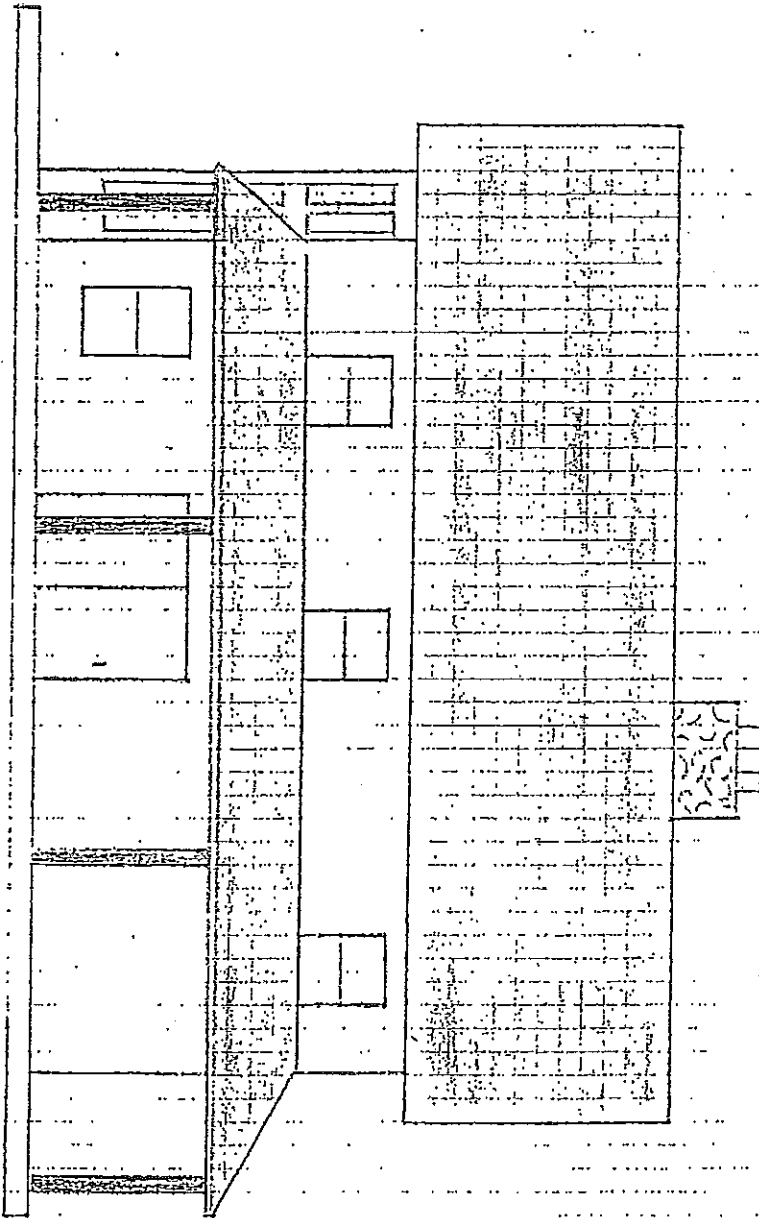
9/24/98

9/24/98



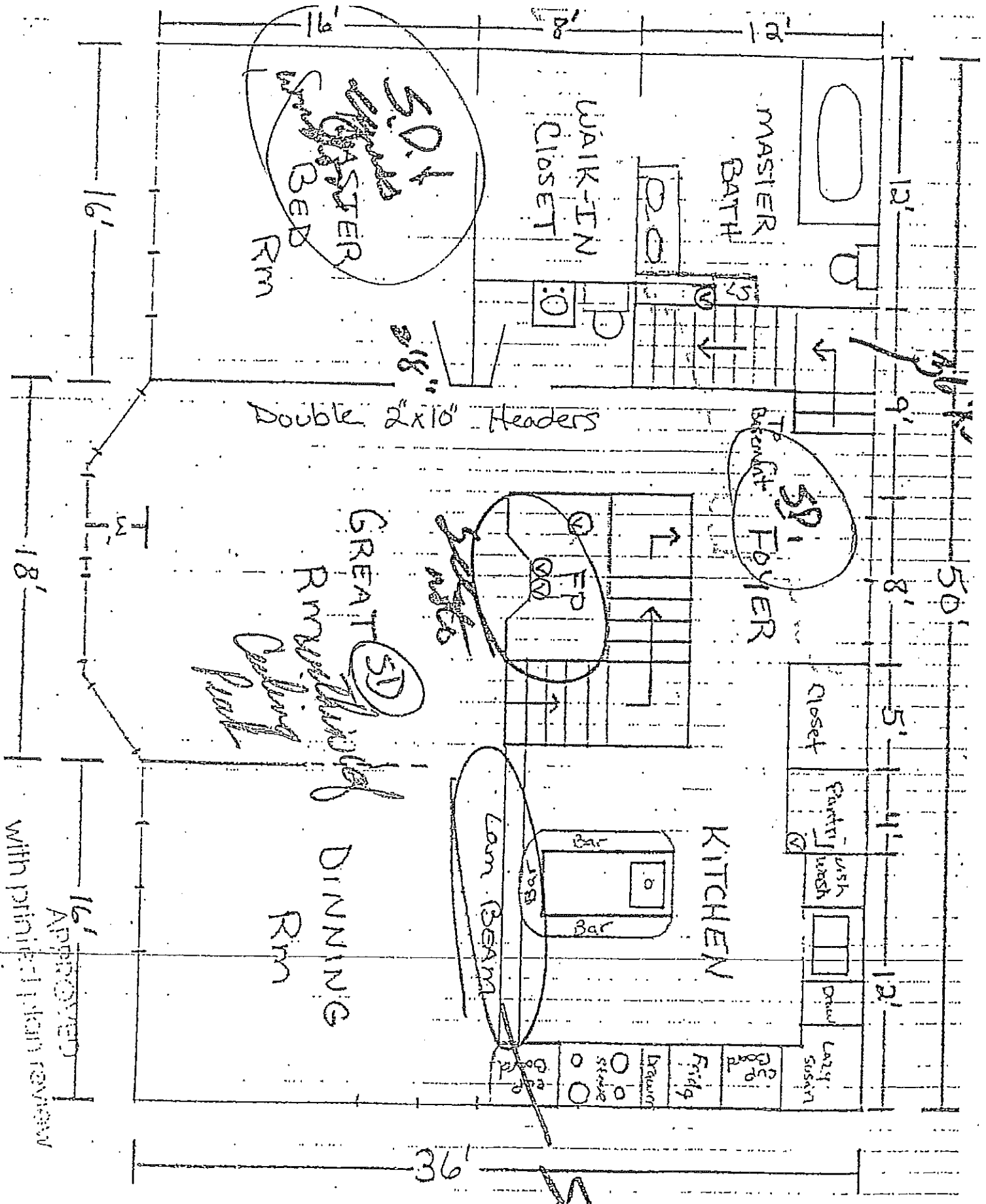
E

SIDE (SOUTH)



SEP 22 1998

10/1/98





PLAN REVIEW  
66398 CR 215  
Stermer  
Lawrence Township  
9/24/98

All references herein are to the State Construction Code: BOCA/1993 National Building Code, 1993 Mechanical Code, the 1990 Plumbing Code, and the State Electrical Code (1993 NEC), plus Construction Code Commission Amendments. The plan review that follows is not intended to identify all construction details that may have been omitted from the drawings or are inadequately or improperly shown. It may also identify items shown but to which the Building Official wants to draw special attention.

**AFTER BUILDING PERMIT IS ISSUED:**

- A. Provide all engineering requested by this plan review that has not already been provided.
  - B. Stake two adjacent property lines.
  - C. Post hard card in visible place before footing inspection.
  - D. Apply for Plumbing, Mechanical, and Electrical inspections to this office (679-4900)
  - E. Contact this office at 679-4900 one day in advance of all inspections. Include: Permit Number, Address of Project, Phone Number, Requested Inspection and Information on accessing the Building.
- 1. Footing inspection shall be conducted after two adjacent property lines have been staked and after forms have been installed prior to concrete placement.
  - 2. Foundation shall be inspected prior to placement of backfill, and after installation of any subgrade insulation.
  - 3. Rough-in Framing shall be inspected when all Electrical, Mechanical and Plumbing rough-ins have been completed and approved. No framing shall be concealed before this inspection.
  - 4. Final Building/Certificate of Occupancy inspection shall be conducted after all final Electrical, Mechanical and Plumbing inspections have been approved.

**BUILDING**

- 107.7 TRUSSES and LAM BEAM: Engineered drawings or specs. shall be provided for pre-manufactured structural members such as laminated beams and trusses. These must be provided to our office at the time of the installation of the pre-manufactured members. Such specs shall verify that the minimum live, dead, and other loads imposed are adequately supported by these

SEP 25 1998

- 1022.2.2 **Handrails** in stairwells shall be mounted 30" to 38" above and vertical to the nosing of the tread.
- 1615.8.1 & 1615.8.2 **Handrails and guards** shall be designed to resist a concentrated load of 200 pounds applied at any point and in any direction.
- 1014.3 Provide a **minimum stair width of 36-inches** for all stairways serving a single family residential structure.
- 1014.3.2 A **landing** shall have a minimum width and depth equal to 36" or the width of the stairs whichever is greater.
- 1014.4 The **head room** in all areas of the stairwell shall not be less 6'-8" measured vertically from the nose of the tread.
- 1014.6 The maximum **riser height** shall not exceed 8.25 inches and the minimum **tread depth** shall not be less than 9" inches.
- 1014.6.1 Install solid risers or guards so that a sphere of 4" can not pass through the **riser space**.
- 1014.6.2 **Adjacent risers and treads** shall not vary more than 3/16", and the difference between the largest and smallest risers or treads in a run shall not exceed 3/8"
- 720.6.2 **Firestopping** is required in all horizontal to vertical construction such as bulkheads and soffits.
- 720.6.4 **Firestopping** shall be provided at openings around vents, pipes, duct, chimneys and fireplaces at ceiling and floor levels. *Do not use flammable foam.*
- 919.3.2, 919.4, and 919.5 Wired, battery back-up, **smoke detectors** shall be located at all levels including basements, near all sleeping areas, in all bedrooms, and shall be interconnected.
- 1806.1 The minimum **depth of footings** measured from finish grade shall be no less than 42".
- 1812.3.2 The maximum unbalanced fill height against a unreinforced 8 inch **poured wall** foundation shall not be more than 7 feet.
- 1813.3 Where hydrostatic pressure will not occur, foundation walls shall be **damp proofed** from the top of the footing to above grade level as required.
- 1812.4 Foundation walls subject to hydrostatic pressures shall

SEP 25 1998

E

1/6 of the depth of the member; shall not be longer than 1/3 of the depth of the member; and not located in the middle 1/3 of the span. Notch depth at the ends of the member shall not exceed 1/4 of the member.

2305.3.2 **Holes** bored or cut into **joists**, rafters, or beams shall not exceed 1/3 the depth of the member and shall not be closer than 2" to the top or bottom or to any other hole or notch in the member.

2305.3.4 A **stud** shall be notched less than 1/3 of its depth, or the member shall be reinforced.

2305.4 **Interior bearing walls** shall be laterally braced or sheathed to provide stability to transfer all lateral loads to the foundation.

2305.6.2 **Joists hangers** or other approved devices shall be installed where joists do not bear on walls or beams by at least 1 1/2 inches.

2305.6.2 **Joists** framing over beams from opposite sides shall either **lap at least 3"** inches and be securely fastened together, or where framed end to end, the joists shall be secured together with sheathing or equal.

2305.6 & 2305.6.1 **Beams** shall bear on girders, walls, or beams at least 4" or shall be supported in hangers or other approved devices.

2603.4 All **foam plastic** insulation shall be separated from the interior of a building (including attic cavities) with 1/2" gyp. board, or other approved material.

722.2 Insulating batts including **vapor retarders and breather papers** shall meet the maximum flame spread and smoke developed rating of this section or be protected with gypsum board or other approved material.

P-1206.2.1 A water closet (**toilet**), lav, or bidet shall not be set closer than 15 inches from its center to any side wall, partition, vanity or other obstruction. There shall be min. 18 inches clearance in front of the water closet, lav, or bidet to any wall, fixture or door.

2114.5 The hearth of **fireplaces** having openings less than 6 square feet shall extend a minimum 16 inches in front of the opening and a minimum of 8 inches on each side of the fireplace opening. For openings greater than 6 sq.ft. install minimum 20" extension in front of opening and 12" on each side. **For zero-clearance fireplaces, provide manufacturer's specs on job site at time of rough-in inspection.**

SEP 25 1998



# CORRECTION NOTICE

LAWRENCE TOWNSHIP  
7 101 98065

PERMIT DATE: 9/25/98  
FTG

OWNER: STERMER

INSPECTION DATE: 10/12/98

INSPECTOR: A.B. SCW

66398 CR 215

NOTES:

R-3

NEW RESIDENCE

1800 SQ FT. MN FL, 1476 2ND FL,

1900 SQ FT. UNFIN, 3 1/2 BATHS,

1 CHIMNEY, 1266 SQ FT DECK

TODD STERMER  
49849 48TH STREET  
LAWRENCE, MI 49064

CONTRACTOR PH#: 874-7011 / 207-4055

CALL FOR RE-INSPECTION (616)679-5396

- |  |                                      |                                   |                                |
|--|--------------------------------------|-----------------------------------|--------------------------------|
| <input checked="" type="checkbox"/> BUILDING | <input type="checkbox"/> foundation  | <input type="checkbox"/> rough in | <input type="checkbox"/> final |
| <input type="checkbox"/> ELECTRICAL          | <input type="checkbox"/> service     | <input type="checkbox"/> rough in | <input type="checkbox"/> final |
| <input type="checkbox"/> MECHANICAL          | <input type="checkbox"/> underground | <input type="checkbox"/> rough in | <input type="checkbox"/> final |
| <input type="checkbox"/> PLUMBING            | <input type="checkbox"/> underground | <input type="checkbox"/> rough in | <input type="checkbox"/> final |

*[Handwritten signature]*

- |   |  |                                  |
|---|--|----------------------------------|
| <input checked="" type="checkbox"/> other | <input checked="" type="checkbox"/> APPROVED | <input type="checkbox"/> PENDING |
| <input checked="" type="checkbox"/> other | <input checked="" type="checkbox"/> APPROVED | <input type="checkbox"/> PENDING |
| <input type="checkbox"/> other            | <input type="checkbox"/> APPROVED            | <input type="checkbox"/> PENDING |
| <input type="checkbox"/> other            | <input type="checkbox"/> APPROVED            | <input type="checkbox"/> PENDING |

Pursuant to Parts 4, 7, 8 & 9 of the Dept. of Labor's General Rules, the attached corrections shall be made (in the case of Plumbing, Electrical, and Mechanical within 7 days of receipt of this notice). Please notify this office one day before reinspection is to be scheduled.

Code Section

*Mostly sand, Deep  
16" X 8" ft. gravel*

ENTERED

PRIOR INSPECTIONS ON THIS PROJECT:

Power company to be contacted:

(for office use only) Power company contacted on:

OWNER: STERMER

STS

INSPECTION DATE: 4-17-02

66398 CR 215

INSPECTOR: Bob Logley

NOTES: INSPECT CONDITION OF FND SYSTEM (LAST INSPECTED 11/1999) REQUESTING EXTENSION OF PMT FOR ABOVE GRADE

TODD STERMER  
49849 48TH STREET  
LAWRENCE, MI 49064

**NEW RESIDENCE**  
1800 SQ FT. MN FL, 1476 2ND FL,  
1900 SQ FT. UNFIN, 3 1/2 BATHS,  
1 CHIMNEY, 1266 SQ FT DECK

CONTRACTOR PH#: 674-7011 / 207-4055

CALL FOR RE-INSPECTION AT (616) 679-5398

<input checked="" type="checkbox"/> BUILDING	<input type="checkbox"/> foundation	<input type="checkbox"/> rough in	<input type="checkbox"/> final	<input type="checkbox"/> other <u>STS</u>	<input type="checkbox"/> APPROVED _____	<input type="checkbox"/> PENDING _____
<input type="checkbox"/> ELECTRICAL	<input type="checkbox"/> service	<input type="checkbox"/> rough in	<input type="checkbox"/> final	<input type="checkbox"/> other _____	<input type="checkbox"/> APPROVED _____	<input type="checkbox"/> PENDING _____
<input type="checkbox"/> MECHANICAL	<input type="checkbox"/> underground	<input type="checkbox"/> rough in	<input type="checkbox"/> final	<input type="checkbox"/> other _____	<input type="checkbox"/> APPROVED _____	<input type="checkbox"/> PENDING _____
<input type="checkbox"/> PLUMBING	<input type="checkbox"/> underground	<input type="checkbox"/> rough in	<input type="checkbox"/> final	<input type="checkbox"/> other _____	<input type="checkbox"/> APPROVED _____	<input type="checkbox"/> PENDING _____

Pursuant to Parts 4, 7, 8 & 9 of the Dept. of Labor's General Rules, the attached corrections shall be made (in the case of Plumbing, Electrical and Mechanical within 7 days of receipt of this notice). Please notify this office one day before reinspection is to be scheduled.

Code Section

① Need Engineering to determine condition of trusses that have been exposed to the weather for 2 plus years

② Properly nail anchor straps to treated plate

PRIOR INSPECTIONS ON THIS PROJECT:  
10/12/99 FTG A                      11/2/99 FND A

Power company to be contacted:

(for office use only) Power company contacted on: \_\_\_\_\_

7/13

# CORRECTION NOTICE

LAWRENCE TOWNSHIP

PERMIT DATE 9/9/2002

OWNER: STERMER

7 E 98065

SVCre

INSPECTION DATE: 10-03-02

66598 CR 215

INSPECTOR: Ben Yale

NOTES: VERIFY PMT # 7-E-2052 GIVEN ON VM  
R-3 02136512/CE

TODD STERMER  
49849 48TH STREET  
LAWRENCE, MI 49064

NEW RESIDENCE  
200 - 600 AMP SVC/ 9 CIRCUITS/ 2 LIGHT  
DW RH AND OR GD/FURNACE/  
4 POWER OUTLET/ FIRE ALARM

CONTRACTOR PH#: 674-7011 / 207-4055

CALL FOR RE-INSPECTION AT (269) 679-5396, extension 201 - CALL BY 3:30 PM FOR A NEXT-DAY INSPECTION

<input type="checkbox"/> BUILDING	<input type="checkbox"/> rough in	<input type="checkbox"/> final	<input type="checkbox"/> other	<input type="checkbox"/> APPROVED	<input type="checkbox"/> PENDING
<input checked="" type="checkbox"/> ELECTRICAL	<input checked="" type="checkbox"/> service	<input type="checkbox"/> rough in	<input type="checkbox"/> final	<input checked="" type="checkbox"/> APPROVED	<input type="checkbox"/> PENDING
<input type="checkbox"/> MECHANICAL	<input type="checkbox"/> underground	<input type="checkbox"/> rough in	<input type="checkbox"/> final	<input type="checkbox"/> APPROVED	<input type="checkbox"/> PENDING
<input type="checkbox"/> PLUMBING	<input type="checkbox"/> underground	<input type="checkbox"/> rough in	<input type="checkbox"/> final	<input type="checkbox"/> APPROVED	<input type="checkbox"/> PENDING

Pursuant to Parts 4, 7, 8 & 9 of the Dept. of Labor's General Rules, the attached corrections shall be made (in the case of Plumbing, Electrical and Mechanical within 7 days of receipt of this notice). Please notify this office one day before reinspection is to be scheduled.

Code Section

Perm / overhead res. / new  
1-Phase

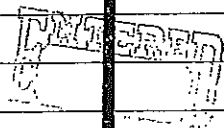
PRIOR INSPECTIONS ON THIS PROJECT:

10/1/02 svc bg

Issued as 66398

Power company to be contacted:

(for office use only) Power company contacted on:



# CORRECTION NOTICE

LAWRENCE TOWNSHIP

PERMIT DATE 12/19/2002

OWNER: STERMER

7 M 98065

RI

INSPECTION DATE: 8/19/03

66598 CR 215

INSPECTOR: T. Stermer

NOTES: 269-674-3210 OR 910-1668 TODD

TODD STERMER  
P.O. BOX 673  
LAWRENCE, MI 49064

NEW RESIDENCE  
1GAS OIL BURNING EQUIP.  
1CHIMNEY/1DUCT/3EXHAUST  
2DAMPER/1TANK/1A/C

CONTRACTOR PH#: 674-7011 / 207-4055

CALL FOR RE-INSPECTION AT (269) 679-4900, extention 201 - CALL BY 3:30 PM FOR A NEXT-DAY INSPECTION

<input type="checkbox"/> BUILDING	<input type="checkbox"/> foundation	<input type="checkbox"/> rough in	<input type="checkbox"/> final	<input type="checkbox"/> other	<input type="checkbox"/> APPROVED	<input type="checkbox"/> PENDING
<input type="checkbox"/> ELECTRICAL	<input type="checkbox"/> service	<input type="checkbox"/> rough in	<input type="checkbox"/> final	<input type="checkbox"/> other	<input type="checkbox"/> APPROVED	<input type="checkbox"/> PENDING
<input checked="" type="checkbox"/> MECHANICAL	<input type="checkbox"/> underground	<input checked="" type="checkbox"/> rough in	<input type="checkbox"/> final	<input type="checkbox"/> other	<input checked="" type="checkbox"/> APPROVED	<input type="checkbox"/> PENDING
<input type="checkbox"/> PLUMBING	<input type="checkbox"/> underground	<input type="checkbox"/> rough in	<input type="checkbox"/> final	<input type="checkbox"/> other	<input type="checkbox"/> APPROVED	<input type="checkbox"/> PENDING

Pursuant to Parts 4, 7, 8 & 9 of the Dept. of Labor's General Rules, the attached corrections shall be made (In the case of Plumbing, Electrical, and Mechanical within 7 days of receipt of this notice). Please notify this office one day before reinspection is to be scheduled.

Code Section

PRIOR INSPECTIONS ON THIS PROJECT:

Power company to be contacted:

(for office use only) Power company contacted on:

# CORRECTION NOTICE

LAWRENCE TOWNSHIP

PERMIT DATE 9/9/2002

OWNER: STERMER

7 E 98065

RI

INSPECTION DATE: 11/5/03

66598 CR 215

INSPECTOR: T. GINTHER

NOTES: MAIN FLOOR & LOFT AREA NOT BSMT OPEN  
R-3 02136512/CE

TODD STERMER  
PO BOX 673  
LAWRENCE, MI 49064

NEW RESIDENCE  
200 - 600 AMP SVC/ 9 CIRCUITS/ 2 LIGHT  
DW RH AND OR GD/FURNACE/  
4 POWER OUTLET/ FIRE ALARM

CONTRACTOR PH#: 674-7011 / 207-4055

CALL FOR RE-INSPECTION AT (269) 679-4900, extention 201 - CALL BY 3:30 PM FOR A NEXT-DAY INSPECTION

<input type="checkbox"/> BUILDING	<input type="checkbox"/> foundation	<input type="checkbox"/> rough in	<input type="checkbox"/> final	<input type="checkbox"/> other	<input type="checkbox"/> APPROVED	<input type="checkbox"/> PENDING
<input checked="" type="checkbox"/> ELECTRICAL	<input type="checkbox"/> service	<input checked="" type="checkbox"/> rough in	<input type="checkbox"/> final	<input type="checkbox"/> other	<input checked="" type="checkbox"/> APPROVED	<input type="checkbox"/> PENDING
<input type="checkbox"/> MECHANICAL	<input type="checkbox"/> underground	<input type="checkbox"/> rough in	<input type="checkbox"/> final	<input type="checkbox"/> other	<input type="checkbox"/> APPROVED	<input type="checkbox"/> PENDING
<input type="checkbox"/> PLUMBING	<input type="checkbox"/> underground	<input type="checkbox"/> rough in	<input type="checkbox"/> final	<input type="checkbox"/> other	<input type="checkbox"/> APPROVED	<input type="checkbox"/> PENDING

Pursuant to Parts 4, 7, 8 & 9 of the Dept. of Labor's General Rules, the attached corrections shall be made (in the case of Plumbing, Electrical, and Mechanical within 7 days of receipt of this notice). Please notify this office one day before reinspection is to be scheduled.

Code Section

ENTER HERE

PRIOR INSPECTIONS ON THIS PROJECT:

10/1/02 svc P 10/3/02 svc re A

input as 66398 see pmt 7-101-02052

Power company to be contacted:

(for office use only) Power company contacted on:

I am hoping that your company will be able to give us the permission and permits we need for this. we have our finances in order to complete the project. I am sorry that I did not apply for an extension as you mentioned. we are new at this and through our own ignorance we were unaware of that option. Please advise us of any procedures of paperwork we need to secure and we will be happy to comply with any requirements. Again thank you for any help you are able to provide us with.

Respectfully

Julia Sterner  
P.O. Box 673

Lawrence MI 49064

616-674-3210 ares home

616-655-8365 work M-F-Wdays

## PLAN REVIEW

3. Rough-in Framing shall be inspected when all Electrical, Mechanical and Plumbing rough-ins have been completed and approved. No framing shall be concealed before this inspection.
4. Final Building/Certificate of Occupancy inspection shall be conducted after all final Electrical, Mechanical and Plumbing inspections have been approved.

**NOTE: BEFORE A CERTIFICATE OF OCCUPANCY CAN BE ISSUED ALL ENTRANCE DOORS (INCLUDING SLIDING DOORS AND FRENCH DOORS) MUST HAVE A 36"X36" LANDING AND STAIRS TO GRADE AT EACH DOOR. HANDRAILS SHALL BE PROVIDED WHERE THERE ARE 3 OR MORE RISERS AND RISERS SHALL BE CLOSED OR REDUCED IN SPACE TO 4 INCHES. GUARDS SHALL BE PLACED ALONG OPEN SIDES OF LANDINGS, STAIRS AND WALKING SURFACES OVER 30 INCHES ABOVE FINISH GRADE.**

## BUILDING

### Foundations

R403.1.4 The minimum depth of footings measured from finish grade shall be no less than 42".

R402.2 Air-entrained concrete (between 5% and 7%) shall be used when pouring in water.

R403.1.1 Spread footing thickness shall be a minimum 6", shall extend a minimum of 2" beyond the wall being carried, but that projection shall not exceed the thickness of the carried wall.

R404.1.1 The maximum unbalanced fill height against an 8-foot high, unreinforced 8" poured wall foundation shall not be more than 7 feet for GW and Gp (Sand Gravel) soil types. Other variations are possible with reinforcement bar, different wall thickness, different wall height, or where soil characteristics are different, but all must comply with this section.

A drain shall be placed around the perimeter of a foundation that consists of drainage tiles, gravel or crushed stone, or perforated pipe. Gravel or crushed



E

## PLAN REVIEW

- R303      **Stair Illumination:** All interior and exterior stairways shall be provided with a means to illuminate the stairs, including the landings and treads. Interior stairways shall be provided with an artificial light source located in the immediate vicinity of each landing of the stairway. Exterior stairways shall be provided with artificial light source located in the immediate vicinity of the top landing of the stairway. Exterior stairways provide access to a basement for the outside grade level shall be provided with an artificial light source located in the immediate vicinity of the bottom landing of the stairway.
- R304      **Minimum area:** Every dwelling unit shall have at least one habitable room that shall have not less than 120 square feet of gross floor area, other rooms shall have a floor area of not less than 70 square feet. The minimum horizontal shall be no less than 7 feet with exception to kitchen.
- R305.1      **Minimum height:** Habitable rooms, hallways, corridors, bathrooms, toilet rooms, laundry rooms and basements shall have a ceiling height of not less than 7 feet. The requirement height shall be measured from the finish floor to the lowest projection from the ceiling.

### WINDOWS/GLAZING:

- R308.4      Safety glass shall be installed within the window units installed to enclose hot tubs, whirlpools, saunas, steam rooms, bathtubs and showers. Glazing in any part of a building wall enclosing these compartments where the bottom exposed edge of the glazing is less than 60 inches measured vertically above any standing or walking surface.
- R308.4      Safety glass shall be installed within an individual fixed or operable panel adjacent to a door where the nearest exposed glazing is within a 24-inch arc of either vertical edge of the door in a closed position and where the bottom exposed edge of the glazing is less than 60 inches above the walking surface.  
Demonstrate compliance at the windows located in the great room.
- R308.4      Safety glass in walls and fences enclosing indoor and outdoor swimming pools, hot tubs, and spas where the bottom edge of the pool or spa side is less than 60



E

## PLAN REVIEW

or exterior door opening for emergency escape and rescue. Where openings are provided as a means of escape and rescue they shall have a sill height of not more than 44 inches above the floor. Where a door opening having a threshold below the adjacent ground elevation serves as an emergency escape and opening and is provided with a bulkhead enclosure, the bulkhead enclosure shall comply with section R310.3. The net clear opening dimensions required by this section shall be obtained by the normal operation of the window or door opening from the inside. Escape and rescue window openings with a finished sill height below the adjacent ground elevation shall be provided with a window well in accordance with Section R310.2.

**R310.1.1 Minimum opening area:** All emergency escaped and rescue openings shall have minimum net clear openings of 5.7 square feet with exception to grade floor openings which may be reduced to 5.0 square feet.

**R310.2 Window Wells:** Window wells requirements for emergency escape and rescue shall have horizontal dimensions that also the door or window of the emergency escape and rescue opening to be fully opened. The horizontal dimensions of the window well shall provide a minimum net clear area of 9 square feet with a minimum horizontal projection and width of 6 inches.

**R310.2.1 Ladder and steps:** Window wells with a vertical depth greater than 44 inches below the adjacent ground level shall be equipped with a permanently affixed ladder or steps usable with the window in the fully open position. Ladder to be a minimum of 12 inches in width and project from the wall 3 inches.

**R310.3 Bulkhead enclosures:** Bulkhead enclosures shall provide direct access to the basement. The bulkhead enclosure with the door panels in the fully open position shall provide the minimum net clear opening required by the Section R310.1.1 (5.7 square feet). Bulkhead enclosure shall also comply with section R314.9. Stairways serving bulkhead enclosures not part of the required building egress and providing access from the outside grade level to the basement shall be exempt from the requirements of section R312, R314 and R315 when the maximum height from the basement finished floor level to grade adjacent to the stairways is covered by a bulkhead enclosure with hinged doors or other approved

## PLAN REVIEW

R314      **Treads and Risers:** The maximum riser height shall be 8 1/4" inches and the minimum tread depth shall be 9 inches. The riser height shall be measured vertically between leading edges of the adjacent treads. The tread depth shall be measured horizontally between the vertical planes of the foremost projection of adjacent treads, and at a right angle to the tread's leading edge. The walking surface of treads and landings of a stairway shall be sloped no steeper than one unit vertical in 48 units horizontal. The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8". The greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8".

R314.2.1   **Profile:** Nosing shall be provided no less than 3/4" to 1.25" for stairways having enclosed risers.

R314.3      **Head room:** The minimum headroom in all parts of the stairway shall not be less than 6 feet 8 inches measured vertically from the sloped plane adjoining the tread nosing or from the floor surface of the landing or platform.

R314.8      **Under Stair Protection:** Enclosed accessible space under stairs shall have walls, under stair surface and any soffits protected on the enclosed side with 1/2" gypsum board.

R315.1      **Handrails:** Handrails having minimum and maximum heights of 34 inches and 38 inches respectively, measured vertically from the nosing of the treads shall be provided on at least one side of stairways. All required handrails shall be continuous the full length of the stairs with 3 or more risers from a point directly above the top riser of flight to a point directly above the lowest riser of the flight. Ends shall be returned or shall terminate in newel posts or safety terminals. Handrails adjacent to a wall shall have a space of not less than 1.5 inches between the wall and the handrail.

R315.2      **Handrail Grip Size:** The handgrip portion of handrails shall have a circular cross section of 1 1/4" minimum to 2 5/8" maximum. Other handrail shall that provide an equivalent grasping surface are permissible. Edges shall have minimum radius of 1/8" inch.

## PLAN REVIEW

R803.2.2 The maximum allowable spans for wood structural panel roof sheathing shall not exceed the values set forth in Table R503.2.1.1(1).

R806.1 Attic ventilation shall be provided at a rate of 1 square foot of ventilation for every 150 square feet of attic area. The ventilation may be reduced when both soffits and ridge vents are installed at a ration of no less than 1:300. (1 square foot of ventilation for every 300 square feet of attic area)

806.1 Access shall be provided to all roof areas having a minimum net clear height of 30 inches. The opening shall have a minimum dimension of 22 inches by 30 inches and have a minimum clear height in that area of 30 inches.

R808.1 Combustible insulation shall be separated a minimum of 3 inches for recessed lighting fixtures, fan motors and other heat-producing devices with exceptions to units that are listed for a lesser clearance.

R905.2.7 1507.4.3A double layer of underlayment shall be installed under asphalt shingles where applied to roofs having slopes under 4:12.

R905.2.7.1An ice shield shall be installed which consists of 2 layers of underlayment cemented together or an approved waterproofing membrane that extends from the eaves edge to a point at least 24 inches inside the exterior wall line of the building.

R905.2.8 Flashing shall be installed against a vertical front wall as well as soil stacks, vent pipe and chimney flashings in accordance with the manufactures specifications. Flashing against a vertical sidewall shall be by the step-flashing method.

G2406.2 **Prohibited locations.** Fuel fired appliances shall not be located in or obtain combustion air from, any of the following rooms or spaces:

1. Sleeping rooms
2. Bathrooms
3. Toilet rooms
4. Storage closets

Exception: This section shall not apply to the

# BUILDING PERMIT

## BUILDING DEPARTMENT

240 North Grand • Suite #1  
Schoolcraft, MI 49087-0662  
(616) 679-4900  
1 (800) 627-2801

Date: 8.15.102

Jurisdiction of Lawrence

Permit # 7-101-82592

New residential construction, addition, and alteration

Job Address: 1610398 CR 215

Property Tax I.D.: 70-13-029-002-90

Zoning district: A-C

Permit Determinant: \_\_\_\_\_

Use Group: MRC-R3

Owner: John Sterner (616) 674-3000

Type Const.: Stick DB

Address: P.O. Box 673 (616) 674-3011

Basic Dimensions: 36 ft. x 50 ft.

Contractor: (Same) Lawrence, MI 49064

No. Floors: \_\_\_\_\_

Address: (Same)

<u>1800</u> Sq. ft. main floor	_____ No. rooms 2nd floor	_____ No. wood burners
<u>292</u> Sq. ft. second floor	_____ No. full baths	_____ Sq. ft. porches/breezeways
_____ Sq. ft. fin. basement	_____ No. half baths	_____ Sq. ft. wood deck
<u>1800</u> Sq. ft. unfin. bsmt.	_____ No. fireplaces	_____ (ft.) ceiling height
_____ No. rooms 1st floor	_____ No. chimneys	_____ (ft.) building height
_____ Sq. ft. garage (attached garage requires fire separation)		

### PLEASE FILL IN OR CHECK THE APPROPRIATE SPACES BELOW:

#### FOUNDATIONS (11)

☒ figs. 3 ☒ x

☒ below fin. grade

☒ No. post footings 3

☒ Poured walls

☒ H.C. block

☒ Wood foundation (provide diagram)

9 Ft. Foundation wall height

☒ crawl space wall height

☒ egress sill height

3 No. bsmt. windows

☒ Crawl space vent openings

#### ROUGH-IN FRAMING (10)

☒ Sill plate (treat)

☒ Wall plates

☒ headers

☒ wood girder

☒ steel girder

☒ post \_\_\_\_\_ ft. O.C.

☒ stud wall

☒ masonry

24 fl. joists O.C.

18 Cell. jst. O.C.

18 Rafter O.C.

☒ Truss (diagram required)

3/4 floor sheathing

7/16 wall sheathing

7/16 roof sheathing

☒ corner brace sheath

#### EXTERIOR (3)

☒ Wood

☒ Aluminum/Vinyl

☒ Brick

☒ Block

#### ROOFS (4)

☒ Hip

☒ Gable

☒ Front overhang

☒ Other overhang

☒ Eavestrough

#### CHIMNEY TYPE

☒ Brick

☒ Block

☒ Stone

☒ Metal

☒ Asphalt Shingles

☒ Underlayment

☒ Vents

☒ Other Coverings

#### WINDOWS (5)

23 No. of windows

☒ Wood sash

☒ Metal sash

☒ Type \_\_\_\_\_

☒ egress/bedrms

☒ attic access 22" x 30"

#### INSULATION (9)

☒ Fiberglass

☒ Cellulose

☒ Blown in fb. glass

☒ Foam

☒ other

☒ rigid poly-ure.

☒ rigid styro

☒ Insul sheath

☒ wind barrier

☒ (mil) moisture barr.

#### INTERIOR (13)

☒ Foyer

☒ Kit fl.

☒ Other fl.

☒ drywall

☒ plaster

☒ covered ceiling

☒ pnl. wainscot

☒ 5/8" garage fire code

#### BUILT-IN ITEMS (15)

☒ oven \_\_\_\_\_ range

☒ disposal

☒ hood/fan

☒ dishwasher

☒ refrigerator

☒ Inclinator

☒ vanities

☒ cupboard length

Contractor Will Stake 2 Adjacent Lot Lines for First Inspection. Sketch Lot Diagram On Back.

Permits eventually required for this project:

Electrical Permit

☒ yes ☐ no

Plumbing Permit

☒ yes ☐ no

Mechanical Permit

☒ yes ☐ no

COST OF PERMIT \$ 50

Building Dept.

By: [Signature]

Make checks payable to:



# BUILDING PERMIT

This Permit Must Be Displayed on  
the Premises When Work Starts

Any person wilfully destroying this permit before the completion of this building will be punished the full extent of the law.

Date 8-5-02 Permit No. 7-101-02052

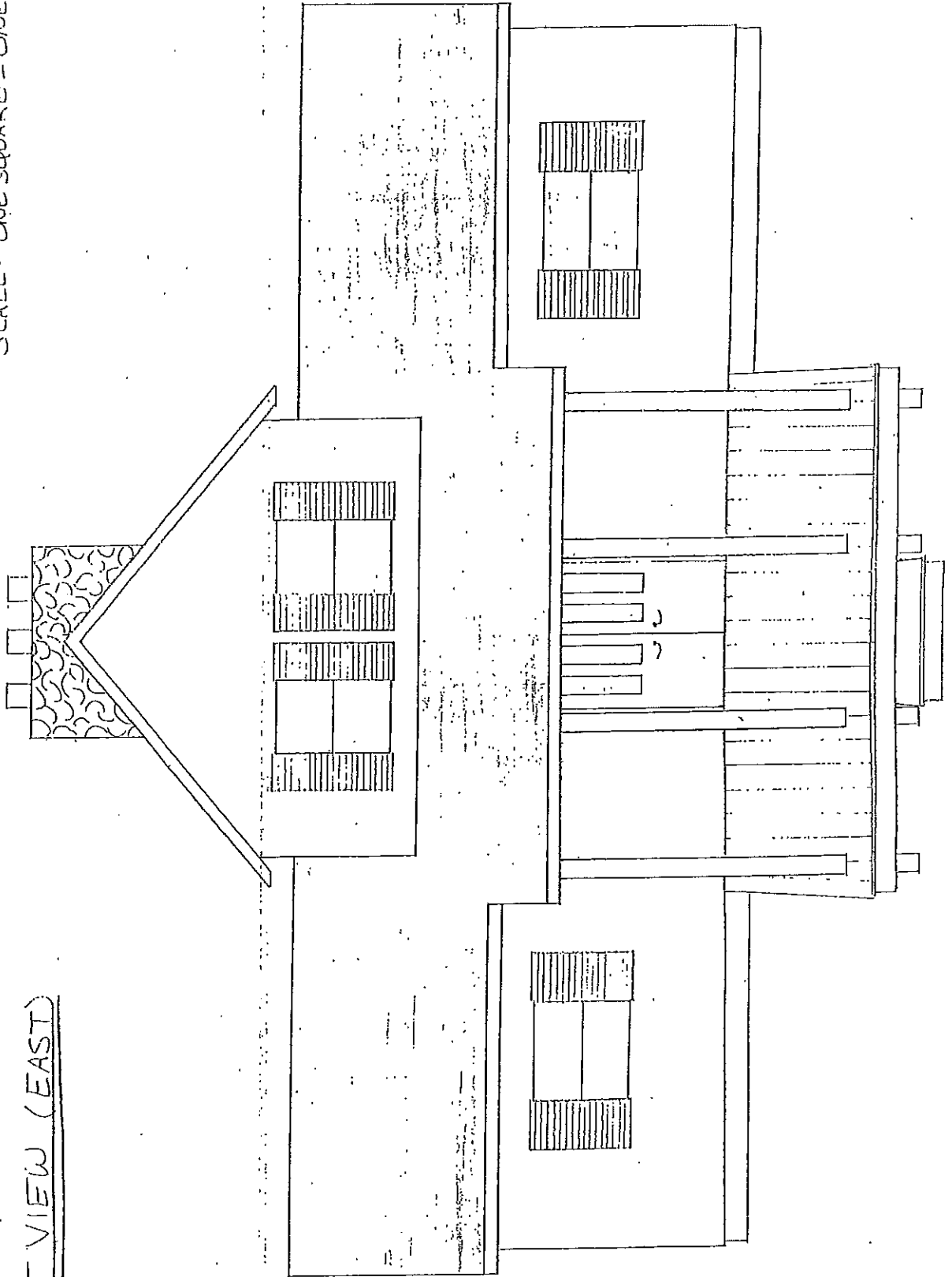
This permit is issued for the ( Erection ) of a New house

Location: 66398 CR 215

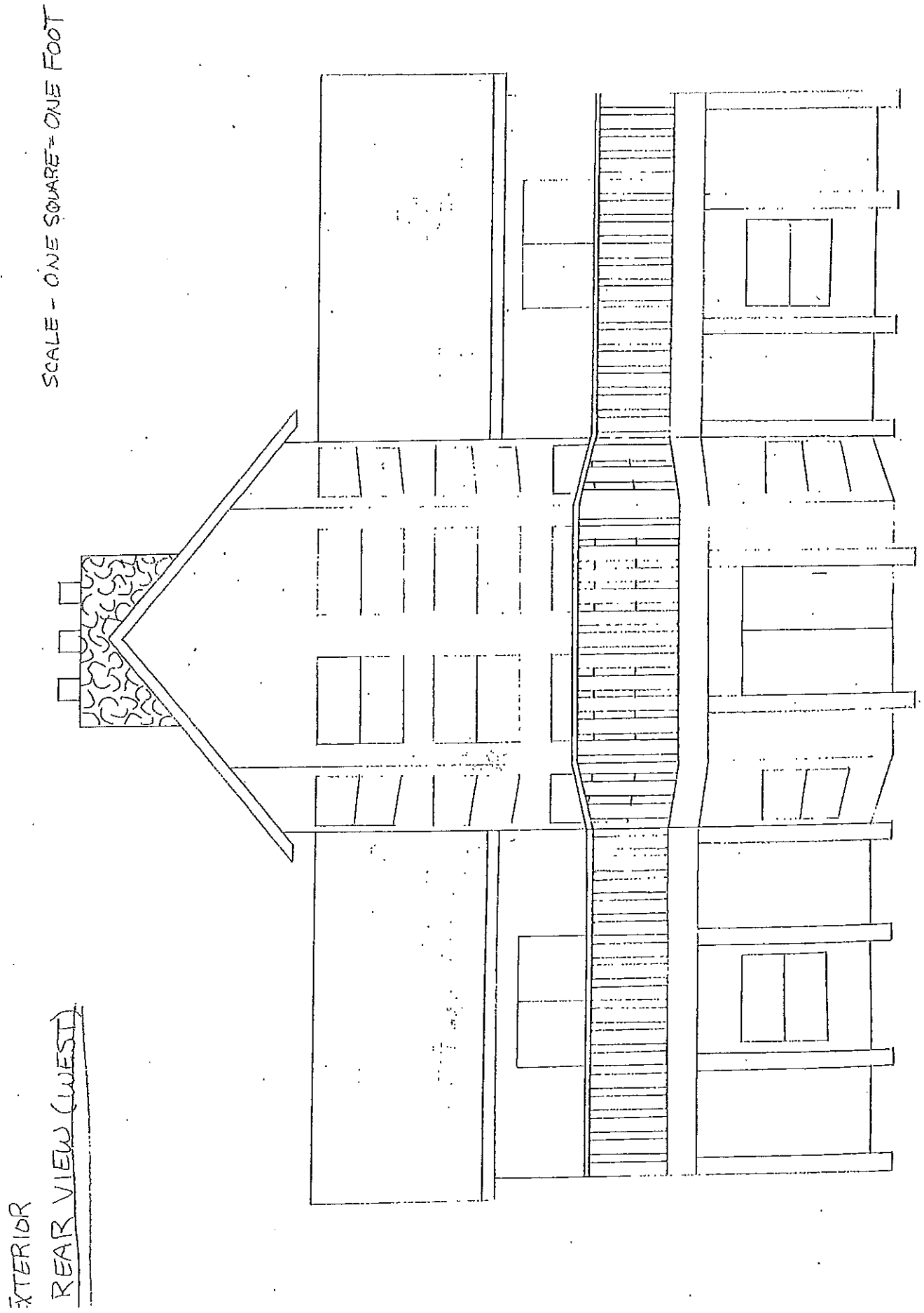
Lawrence  
NAME OF CITY, TOWNSHIP OR VILLAGE  
[Signature]  
Building Inspector

SCALE - ONE SQUARE = ONE FOOT

EXTERIOR  
FRONT VIEW (EAST)



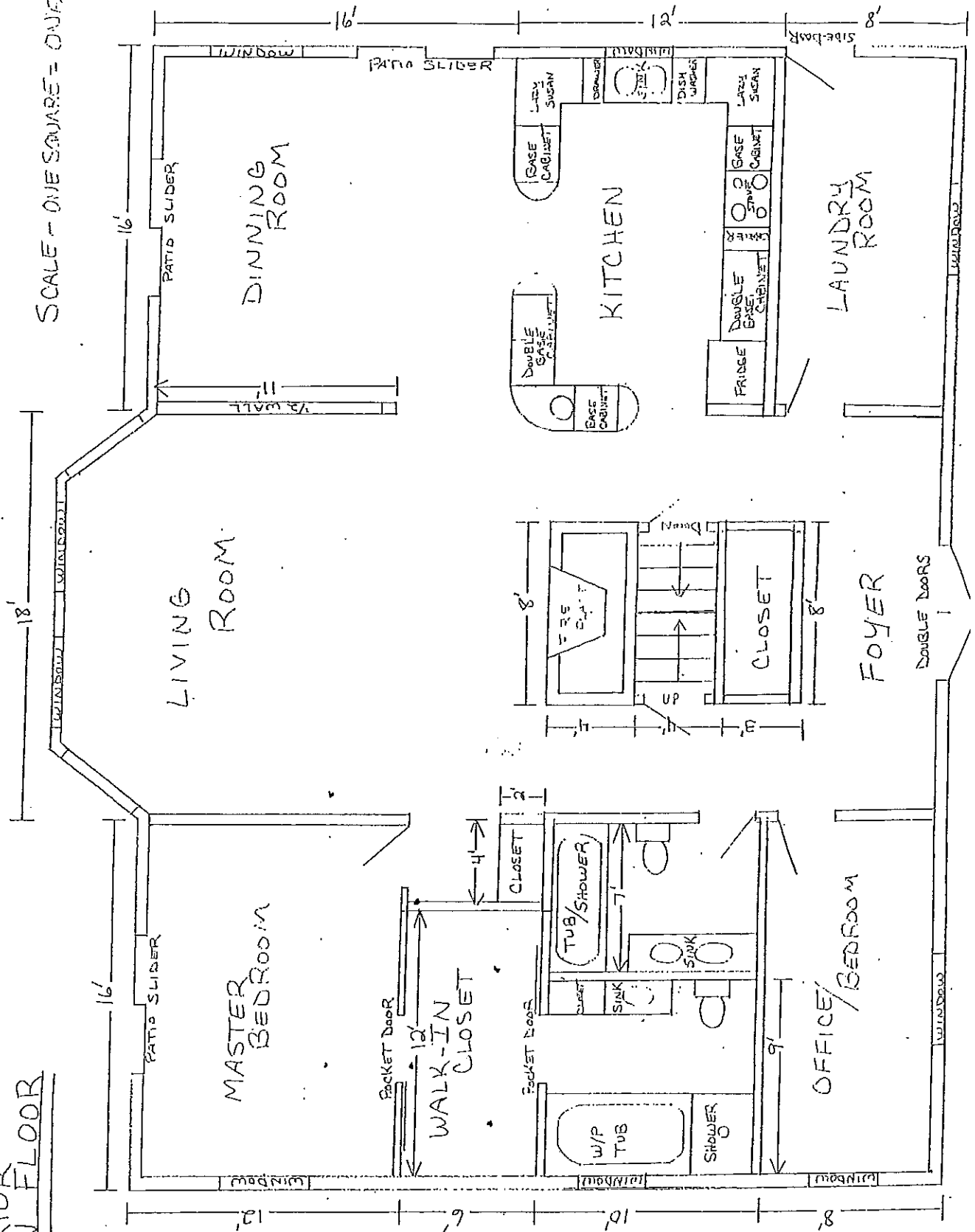
E





VIEWKICK  
MAIN FLOOR

SCALE - ONE SQUARE = ONE FOOT



E

## PLAN REVIEW

August 06, 2002  
Stermer  
66398 CR 215  
Lawerence Township

This document is intended to be used as part of the plan review along with the drawings submitted and reviewed for the identified project. All references herein are to the State Construction Code: Michigan Residential Code 2000 and the State Electrical Code (1999 NEC) plus State Amendments. The plan review that follows is not intended to identify all construction details that may have been omitted from the drawings or are inadequately or improperly shown. It may also identify items shown but to which the Building Official wants to draw special attention. Some elements of construction and installation procedures not identified in this report will have to be reviewed by inspection.

Once approved the construction documents shall not be altered unless the modification is submitted and approved by the Building Official (Section 106.4). Where special conditions exist, the Building Official is authorized to require additional construction documents to be prepared by a registered designed professional (section 106.1), and a permit shall expire after six (6) months if the work is not commenced; is abandon; or is suspended (Section 105.5).

### **AFTER BUILDING PERMIT IS ISSUED:**

- A. **Stake two adjacent property lines.**
  - B. **Post hard card** in visible place before footing inspection.
  - C. Your approved set of plans shall be kept on site for rough-in and final inspections.
  - D. Apply for Plumbing, Mechanical, and Electrical inspections to this office (679-4900)
  - E. Contact this office at 679-5396 one day in advance of all inspections. Include: **Permit Number, Address of Project, Phone Number, Requested Inspection and Information on accessing the Building.**
- 
- 1. **Rough-in Framing** shall be inspected when all Electrical, Mechanical and Plumbing rough-ins have been completed and approved. No framing shall be concealed before this inspection.
  - 2. **Final Building/Certificate of Occupancy** inspection shall be conducted after all final Electrical, Mechanical and Plumbing inspections have been approved.

E

## PLAN REVIEW

R303 **Stair Illumination:** All interior and exterior stairways shall be provided with a means to illuminate the stairs, including the landings and treads. Interior stairways shall be provided with an artificial light source located in the immediate vicinity of each landing of the stairway. Exterior stairways shall be provided with artificial light source located in the immediate vicinity of the top landing of the stairway. Exterior stairways provide access to a basement for the outside grade level shall be provided with an artificial light source located in the immediate vicinity of the bottom landing of the stairway.

R304 **Minimum area:** Every dwelling unit shall have at least one habitable room that shall have not less than 120 square feet of gross floor area, other rooms shall have a floor area of not less than 70 square feet. The minimum horizontal shall be no less than 7 feet with exception to kitchen.

R305.1 **Minimum height:** Habitable rooms, hallways, corridors, bathrooms, toilet rooms, laundry rooms and basements shall have a ceiling height of not less than 7 feet. The requirement height shall be measured from the finish floor to the lowest projection from the ceiling.

### WINDOWS/GLAZING:

R308.4 Safety glass shall be installed within the window units installed to enclose hot tubs, whirlpools, saunas, steam rooms, bathtubs and showers. Glazing in any part of a building wall enclosing these compartments where the bottom exposed edge of the glazing is less than 60 inches measured vertically above any standing or walking surface.

R308.4 Safety glass shall be installed within an individual fixed or operable panel adjacent to a door where the nearest exposed glazing is within a 24-inch arc of either vertical edge of the door in a closed position and where the bottom exposed edge of the glazing is less than 60 inches above the walking surface.  
Demonstrate compliance at the windows located in the great room.

R308.4 Safety glass in walls and fences enclosing indoor and

## PLAN REVIEW

R310.1 **Emergency Escape and Rescue Required:** Basements with habitable space and every sleeping room shall have at least one openable emergency escape and rescue window or exterior door opening for emergency escape and rescue. Where openings are provided as a means of escape and rescue they shall have a sill height of not more than 44 inches above the floor. Where a door opening having a threshold below the adjacent ground elevation serves as an emergency escape and opening and is provided with a bulkhead enclosure, the bulkhead enclosure shall comply with section R310.3. The net clear opening dimensions required by this section shall be obtained by the normal operation of the window or door opening from the inside. Escape and rescue window openings with a finished sill height below the adjacent ground elevation shall be provided with a window well in accordance with Section R310.2.

R310.1.1 **Minimum opening area:** All emergency escaped and rescue openings shall have minimum net clear openings of 5.7 square feet with exception to grade floor openings which may be reduced to 5.0 square feet.

R310.2 **Window Wells:** Window wells requirements for emergency escape and rescue shall have horizontal dimensions that also the door or window of the emergency escape and rescue opening to be fully opened. The horizontal dimensions of the window well shall provide a minimum net clear area of 9 square feet with a minimum horizontal projection and width of 6 inches.

R310.2.1 **Ladder and steps:** Window wells with a vertical depth greater than 44 inches below the adjacent ground level shall be equipped with a permanently affixed ladder or steps usable with the window in the fully open position. Ladder to be a minimum of 12 inches in width and project from the wall 3 inches.

R310.3 **Bulkhead enclosures:** Bulkhead enclosures shall provide direct access to the basement. The bulkhead enclosure with the door panels in the fully open position shall provide the minimum net clear opening required by the Section R310.1.1 (5.7 square feet). Bulkhead enclosure shall also comply with section R314.9. Stairways serving bulkhead enclosures not part of the required building egress and providing access from the outside grade level to the basement shall be exempt from the

## PLAN REVIEW

31.5 inches where a handrail is installed on one side and 27 inches where handrails are provided on both sides.

R314 **Treads and Risers:** The maximum riser height shall be 8 1/4" inches and the minimum tread depth shall be 9 inches. The riser height shall be measured vertically between leading edges of the adjacent treads. The tread depth shall be measured horizontally between the vertical planes of the foremost projection of adjacent treads, and at a right angle to the tread's leading edge. The walking surface of treads and landings of a stairway shall be sloped no steeper than one unit vertical in 48 units horizontal. The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8". The greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8".

R314.2.1 **Profile:** Nosing shall be provided no less than 3/4" to 1.25" for stairways having enclosed risers.

R314.3 **Head room:** The minimum headroom in all parts of the stairway shall not be less than 6 feet 8 inches measured vertically from the sloped plane adjoining the tread nosing or from the floor surface of the landing or platform.

R314.8 **Under Stair Protection:** Enclosed accessible space under stairs shall have walls, under stair surface and any soffits protected on the enclosed side with 1/2" gypsum board.

R315.1 **Handrails:** Handrails having minimum and maximum heights of 34 inches and 38 inches respectively, measured vertically from the nosing of the treads shall be provided on at least one side of stairways. All required handrails shall be continuous the full length of the stairs with 3 or more risers from a point directly above the top riser of flight to a point directly above the lowest riser of the flight. Ends shall be returned or shall terminate in newel posts or safety terminals. Handrails adjacent to a wall shall have a space of not less than 1.5 inches between the wall and the handrail.

R315.2 **Handrail Grip Size:** The handgrip portion of handrails

E

## PLAN REVIEW

R802.10.2 Wood trusses shall be designed in accordance with accepted engineering practice. The design and manufacture of metal plate connected wood trusses shall comply with ANSI/TPI 1. The truss design drawings shall be prepared by a registered professional. These spaces shall be on site at the time of the building rough in inspection.

R803.2.2 The maximum allowable spans for wood structural panel roof sheathing shall not exceed the values set forth in Table R503.2.1.1(1).

R806.1 Attic ventilation shall be provided at a rate of 1 square foot of ventilation for every 150 square feet of attic area. The ventilation may be reduced when both soffits and ridge vents are installed at a ration of no less than 1:300. (1 square foot of ventilation for every 300 square feet of attic area)

806.1 Access shall be provided to all roof areas having a minimum net clear height of 30 inches. The opening shall have a minimum dimension of 22 inches by 30 inches and have a minimum clear height in that area of 30 inches.

R808.1 Combustible insulation shall be separated a minimum of 3 inches for recessed lighting fixtures, fan motors and other heat-producing devices with exceptions to units that are listed for a lesser clearance.

R905.2.7 1507.4.3A double layer of underlayment shall be installed under asphalt shingles where applied to roofs having slopes under 4:12.

R905.2.7.1 An ice shield shall be installed which consists of 2 layers of underlayment cemented together or an approved waterproofing membrane that extends from the eaves edge to a point at least 24 inches inside the exterior wall line of the building.

R905.2.8 Flashing shall be installed against a vertical front wall as well as soil stacks, vent pipe and chimney flashings in accordance with the manufactures specifications. Flashing against a vertical sidewall shall be by the step-flashing method.

G2406.2 Prohibited locations. Fuel fired appliances shall



Sep. 13 2002 02:40 PM FBI

FROM M-51 OUTLET

PHONE NO. : 1616 655 8396

7-101-98065

Attn: Bart Gale

Re: Building permit address change

Mrs. Gale

TERESA

\* →

Thank you so much for your helpful and informative call. Please change permit # 7-101-00052 the address should be 66598 CR 215 and not 66398 CR 215. You had given me permit # 7-101-98065 but the card has the new # on it. I am including copies of documents you requested:

Proof of Ownership - Deed  
Legal Description - Deed  
Diagram - Handwritten  
Tax ID # - Deed

Please mail going up for shed. We are not in any way associated with Mr. Don Antle other than neighbors.

Please be aware we are currently submitted our applications on address of 66398. The correct address is 66598 CR 215.

Thank you  
Teresa

mead

# CORRECTION NOTICE

LAWRENCE TOWNSHIP

PERMIT DATE 8/5/2002

OWNER: STERMER

7 101 02052

RI-re

INSPECTION DATE:

12/8/03

66598 CR 215

INSPECTOR:

D. Hester

NOTES: HOUSE OPEN  
MRC R3

NEW RESIDENCE/unfin existing bsmt/2 fl  
36 X 50 FT/ 1800 SF MF/ 292 SF 2ND FL  
1800 SF BSMT/ END OF ITEMIZATION

TODD STERMER  
PO. BOX 673  
LAWRENCE, MI 49064

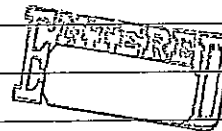
CONTRACTOR PH#: 269-674-7011

CALL FOR RE-INSPECTION AT (269) 679-4900, extention 201 - CALL BY 3:30 PM FOR A NEXT-DAY INSPECTION

<input checked="" type="checkbox"/> BUILDING	<input type="checkbox"/> foundation	<input checked="" type="checkbox"/> rough in	<input type="checkbox"/> final	<input type="checkbox"/> other	<input checked="" type="checkbox"/> APPROVED	<input type="checkbox"/> PENDING
<input type="checkbox"/> ELECTRICAL	<input type="checkbox"/> service	<input type="checkbox"/> rough in	<input type="checkbox"/> final	<input type="checkbox"/> other	<input type="checkbox"/> APPROVED	<input type="checkbox"/> PENDING
<input type="checkbox"/> MECHANICAL	<input type="checkbox"/> underground	<input type="checkbox"/> rough in	<input type="checkbox"/> final	<input type="checkbox"/> other	<input type="checkbox"/> APPROVED	<input type="checkbox"/> PENDING
<input type="checkbox"/> PLUMBING	<input type="checkbox"/> underground	<input type="checkbox"/> rough in	<input type="checkbox"/> final	<input type="checkbox"/> other	<input type="checkbox"/> APPROVED	<input type="checkbox"/> PENDING

Pursuant to Parts 4, 7, 8 & 9 of the Dept. of Labor's General Rules, the attached corrections shall be made (in the case of Plumbing, Electrical, and Mechanical within 7 days of receipt of this notice). Please notify this office one day before reinspection is to be scheduled.

R.I. approved.



Code Section

PREVIOUS INSPECTIONS ON THIS PROJECT:  
11/22/02 VERIFY POSTING OF 11/3/2003 RI P

one part 7 101 02052 under 66598

Power company to be contacted:

(for office use only) Power company contacted on:

## GENERAL AFFIDAVIT

State of Texas

County of Bexar

BEFORE ME, the undersigned Notary, Yvonne De la Torre on this 7th day of June, 2013, personally appeared Shirlene Kay Wollam, known to me to be a credible person and of lawful age, which being by me first duly sworn, on his oath, deposes and says:

In doing my own research into house fire investigations, I found numerous websites that gave information in regard to the training required to be a fire investigator, information on how to defend an arson charge, and articles written about convictions overturned because of faulty investigations and bad science.

These are only a few:

NAFI.org	National Association of Fire Investigators A website dedicated to the discussion & understanding of NFPA 921 Text book: 921/1033 Fire Investigation Principles & Practices
Interfire.org	How to conduct fire scene examination, witness interviews, & trial preparation
NCJRS.gov	US Department of Justice Fire & Arson Scene Evidence: A Guide for Public Safety Personnel
NIJ.gov	National Institute of Justice A Guide for Investigating Fire & Arson
USFA.FEMA.gov	Federal Emergency Management Agency Guide to: Rural Arson Control
Thearsonresearchproject.org	the Arson Research Project Case Studies of arson convictions based on unreliable evidence (7 listed)
Truthinjustice.org	Truth in Justice Chicago Tribune 10/18/04 Article 'Arson Myths Fuel Errors'

Shirlene Kay Wollam  
Signature of Affiant

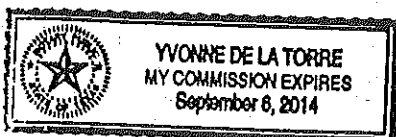
Affiant's Full Name: Shirlene Kay Wollam

Affiant's Address: 9626 Annandale  
San Antonio, TX 78239

State of Texas

County of Bexar

Sworn to and subscribed before me on the 7th day of June, 2013, by  
Shirlene Kay Wollam



Yvonne De la Torre  
Notary Public's Signature